



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6496791 :
Issue Date: December 17, 2002 :
Application No. 09111691 :DECISION GRANTING PETITION
Filed: July 8, 1998 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 18121-6-1 :

This is a decision on the electronic petition, filed December 21, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 21, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,496,791	2002-12-17	09/111,691	1998-07-08	063034.0294

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input checked="" type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

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Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/bernadette lee/	Date (YYYY-MM-DD)	2011-12-21
Name	Bernadette Lee	Registration Number	60298
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

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The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6229562	2001-05-08	09111990	1998-07-08	2616/KREMEN

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|---------------------------------|-----|--------|
| <input type="radio"/> 3 ½ year | | (1551) |
| <input type="radio"/> 7 ½ year | | (1552) |
| <input type="radio"/> 11 ½ year | | (1553) |

Small Entity

- | | Fee | Code |
|---|-----|--------|
| <input type="radio"/> 3 ½ year | | (2551) |
| <input checked="" type="radio"/> 7 ½ year | | (2552) |
| <input type="radio"/> 11 ½ year | | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☐ An attorney or agent registered to practice before the Patent and Trademark Office
- ☒ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Sole Patentee			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/Stanley H. Kremen/	Date (YYYY-MM-DD)	2011-03-23
Name	Stanley H. Kremen		
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

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3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
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In re Patent No. 6229562 :
Issue Date: May 8, 2001 :
Application No. 09111990 :DECISION GRANTING PETITION
Filed: July 8, 1998 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 2616/KREMEN :

This is a decision on the electronic petition, filed March 23, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 23, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



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www.uspto.gov

RONALD C. DELONG
101 EAST NEEDMORE HIGHWAY
GRAND LEDGE MI 48837

MAILED
DEC 15 2011
OFFICE OF PETITIONS

Patent No. 5,947,356 :
Application No. 09/113,285 :
Filed: July 10, 1998 : ON PETITION
Issued: September 9, 1999 :
Attorney Docket No. 15757.00 :

This is a decision on the petition under 37 CFR 1.378(c), filed October 24, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED AS MOOT**.

Petitioner Steven K. DeLong, the son of inventor Ronald C. DeLong, filed a petition to accept delayed payment of a maintenance fee on October 24, 2011. However, on November 7, 2011, Mr. DeLong submitted a request to withdraw the petition. Further, a stop order was placed on the monies submitted concurrently with the original petition. As such, the petition is hereby dismissed as moot.

Petitioner should note that any future petition to accept the delayed payment of a maintenance fee under the unintentional standard may not be granted, as this may be viewed as an intentional delay.

A courtesy copy of this decision is being mailed to the address given on the petition.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

The centralized facsimile number is **(571) 273-8300**.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: STEVEN L. DELONG
26680 HENDRICKSON ROAD
CALUMET, MI 49913



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6505524 :
Issue Date: January 14, 2003 :
Application No. 09114332 :DECISION GRANTING PETITION
Filed: July 13, 1998 :UNDER 37 CFR 1.378(c)
Attorney Docket No. HORI0121PUS :

This is a decision on the electronic petition, filed January 21, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 21, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6505524	2003-01-14	09/114,332	1998-07-13	HORI 0121 PUS

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SURCHARGE

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MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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- ☐ The assignee of record of the entire interest

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Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Jeremy J. Curcuri/	Date (YYYY-MM-DD)	2011-01-21
Name	Jeremy J. Curcuri	Registration Number	42454
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

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Paper No. 7

BAKER & MCKENZIE LLP
PENNZOIL PLACE, SOUTH TOWER
711 LOUISIANA, STE. 3400
HOUSTON TX 77002

MAILED

DEC 01 2010

OFFICE OF PETITIONS

In re Patent No. 5,967,784 :
Issue Date: 10/19/1999 :
Application Number: 09/114,697 : ON PETITION
Filing Date: 01/13/1998 :
Attorney Docket Number: :
1562-PAT :

This is a decision is in response to the petition under 37 CFR 1.378(b), filed on September 15, 2010, to accept the delayed payment of the maintenance fee for the above-identified patent.

The petition is dismissed.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this 2-month time limit can be granted under 37 CFR 1.136(a) or (b). Any such petition for reconsideration must be accompanied by the petition fee of \$400.00 as set forth in 37 CFR 1.17(f). The petition for reconsideration should include an exhaustive attempt to provide the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

The patent issued on October 19, 1999. The first maintenance fee payment was timely made. The second maintenance fee could have been paid during the period from October 19, 2006, through April 19, 2007, or, with a surcharge, during the period from April 20 through October 19, 2007. Accordingly, this patent expired at midnight on October 19, 2007, for failure to timely remit the maintenance fee.

Petitioner, patentee Michael J. Powers, states, in pertinent part:

4. I was not aware that the patent had lapsed for failure to pay fees.
5. My patent attorney died before 2007. He was one of two or three members of a small local law firm, only one of whom remains in practice.
6. That firm has no records of having attempted to notify me about the fee deadline, but assured me it was their standard practice.
7. My orthodontic practice dissolved in about 2004 due to my disability, whereon I sold my practice to another practitioner and closed my office.
8. I have moved four times since then.
9. If the law firm did attempt to notify me about the coming fee deadline, that notice never reached me.

A petition to accept the delayed maintenance fee under 35 U.S.C. § 41(c) and 37 CFR 1.378(b) must be accompanied by (1) an adequate, verified showing that the delay was unavoidable, since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent, (2) payment of the appropriate maintenance fee, unless previously submitted, and (3) the payment of the surcharge set forth in 37 CFR 1.20(i). This petition lacks item (1).

A late maintenance fee is considered under the same standard as that for reviving an abandoned application under 35 U.S.C. § 133 because 35 U.S.C. § 41(c)(1) uses identical language (i.e. "unavoidable delay"). Ray v. Lehman, 55 F.3d 606, 608-09, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995) (quoting In re Patent No. 4,409,763, 7 USPQ2d 1798, 1800 (Comm'r Pat. 1989)).

Decisions reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable.¹ In this regard:

The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.²

A patent owner's failure to pay a maintenance fee may be considered to have been "unavoidable" if the patent owner "exercised the due care of a reasonably prudent person." Ray v. Lehman, 55 F.3d 606, 608-09 (Fed.Cir.), cert. denied, -- U.S. ---, 116 S.Ct. 304, L.Ed.2d 209 (1995). This determination is to be made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Unavoidable delay under 35 U.S.C. § 41(b) is measured by the same standard as that for reviving an abandoned application under 35 U.S.C. § 133. In re Patent No. 4,409,763, 7 USPQ2d 1798, 1800 (PTO Comm'r 1988).

In view of In re Patent No. 4,409,763, this same standard will be applied to determine whether "unavoidable" delay within the meaning of 37 CFR 1.378(b) occurred.

¹ Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used by prudent and careful men in relation to their most important business").

² In re Mattullath, 38 App. D.C. 497, 514-15 (1912) (quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

This petition does not satisfy the requirement of 37 CFR 1.378(b)(3). The statements presented in the petition fail to satisfy the showing required to establish unavoidable delay within the meaning of 37 CFR 1.378(b).

As 35 U.S.C. § 41(c) requires the payment of fees at specified intervals to maintain a patent in force, rather than some response to a specific action by the Office under 35 U.S.C. § 133, a reasonably prudent person in the exercise of due care and diligence would have taken steps to ensure the timely payment of such maintenance fees. Ray, 55 F.3d at 609, 34 USPQ2d at 1788. That is, an adequate showing that the delay was "unavoidable" within the meaning of 35 U.S.C. § 41(c) and 37 CFR 1.378(b)(3) requires a showing of the steps taken to ensure the timely payment of the maintenance fees for this patent. Id.

At the outset, petitioner states that his previous patent attorney deceased "before 2007". Petitioner must provide the date that the attorney died or closed his practice in order to assist in the determination of whether the delay was unavoidable.

Additionally, as petitioner states that one of the attorneys who was a member of the law firm which petitioner's attorney was also a member is still in practice, it is unclear whether petitioner's counsel was associated with another attorney or law firm at the time of his death, whether that attorney had agreed to assume responsibility for matters concerning petitioner's attorney's clients in the event of the attorney's death or incapacitation, and whether the maintenance fees for the present patent were docketed in a reliable tracking system. Petitioner must also explain who, if anyone, took over the attorney's docketed caseload after his death, and what actions were taken to ensure that the attorney's cases were properly handled.

In this respect, petitioner should send a letter (accompanied by a copy of this decision) to the surviving partner(s) in the attorney's law practice, if any, or his legal representative, if no other attorney has acquired the law practice, by registered or certified mail, return receipt requested, indicating that the USPTO is requesting the assistance of the attorney's law firm and/or legal representative in determining the circumstances surrounding the expiration of this application, and is specifically requesting a statement as to who, if anyone, was responsible for docketing and payment of the maintenance fees for the present patent, and if the attorney's law firm or legal representative was responsible, why petitioner was not timely notified that the second maintenance fee was due. Such

statements should be accompanied by copies of any documents (e.g., correspondence between petitioner and counsel) relevant to the docketing of maintenance fees in this patent. In the event that the law firm or legal representative fails to provide a statement within a period (e.g., within one (1) month) specified in such letter, petitioner should submit a copy of such letter and the return receipt indicating its delivery to the attorney's law firm or legal representative with any renewed petition under 37 CFR 1.137(a).

Furthermore, as it is noted that it is petitioner who is ultimately responsible for the payment of maintenance fees, petitioner must explain what agreement existed between the patent attorney and petitioner regarding providing notice that the maintenance fees were due. Copies of any written agreements or other memoranda must be provided with any renewed petition.

The Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and applicant is bound by the consequences of those actions, or inactions. Link v. Wabash, 370 U.S. 626, 633-34 (1962); Huston v. Ladner, 973 F.2d 1564, 1567, 23 USPQ2d 1910, 1913 (Fed. Cir. 1992); see also Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (N.D. Ind. 1987). Specifically, petitioner's delay caused by the actions or inactions of his voluntarily chosen representative is a delay binding on petitioner. See Haines v. Quigg, *supra*; Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (Comm'r Pat. 1891). Furthermore, petitioner is reminded that the Patent and Trademark Office is not the proper forum for resolving a dispute between petitioner and petitioner's representative. Ray v. Lehman, 55 F.3d 608-09, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995). Petitioners were not forced, but rather made a conscious decision to obtain the services of the chosen representative in payment of the maintenance fees for this patent, and therefore must be held accountable for his actions, or lack thereof, before the Office.

Further, with regards to petitioner's assertion that his attorney's law firm failed to notify petitioner that the maintenance fee was due, in accordance with the law firm's standard practice, petitioner's reliance on his attorney to inform him as to when the maintenance fee is due merely shifts the focus of the inquiry from petitioner to whether the attorney or agent acted reasonably and prudently. Ray v. Lehman, 55 F.3d 606, 608-09, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995). As such,

assuming that the agent had been so engaged, then it is incumbent upon petitioner to demonstrate, via a documented showing, that the attorney or agent had docketed this patent for the first maintenance fee payment in a reliable tracking system. Id. If petitioner cannot establish that agent had been so engaged, then petitioner will have to demonstrate what steps were established by petitioner to monitor and pay the maintenance fee.

The above paragraph notwithstanding, petitioner is reminded that the failure of communication between an applicant and counsel is not unavoidable delay. In re Kim, 12 USPQ2d 1595 (Comm'r Pat. 1988). Specifically, delay resulting from a lack of proper communication between a patent holder and a registered representative as to who bore the responsibility for payment of a maintenance fee does not constitute unavoidable delay within the meaning of 35 U.S.C. § 41(c) and 37 CFR 1.378(b). See Ray v. Lehman, 55 F.3d 606, 608-09, 34 USPQ2d 1786, 1878 (Fed. Cir. 1995). Moreover, the Office is not the proper forum for resolving a dispute as to the effectiveness of communications between parties regarding the responsibility for paying a maintenance fee. Id. Petitioners were not forced, but rather made a conscious decision to obtain the services of the chosen representative in payment of the maintenance fees for this patent, and therefore must be held accountable for his actions, or lack thereof, before the Office.

Lastly, with regard to petitioner's contention that he was unaware that the maintenance fee was due, a delay resulting from a lack of knowledge or improper application of the patent statute, rules of practice, or the MPEP does not constitute an "unavoidable" delay. See Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ 1130, 1132 (N.D. Ind. 1987), Vincent v. Mossinghoff, 230 USPQ 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (Comm'r Pat. 1891). As the showing of record does not rise to the level of unavoidable delay, the petition will be dismissed.

In summary, while the circumstances surrounding the delay in payment of the second maintenance fee are unfortunate, the showing of record does not rise to the level of unavoidable delay. The petition will therefore be dismissed.

Petitioner should note that if this petition is not renewed, or if renewed and not granted, then the maintenance fee and post-expiration surcharge are refundable. The \$400.00 petition fee for expedited consideration is not refundable. The \$400.00 petition

Patent No. 5,967,784
Application No. 09/114,697

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fee for seeking reconsideration is not refundable. Any request for refund should be in writing to the address noted below.

The address in the petition is different than the correspondence address. A copy of this decision will be mailed to the address in the petition. All future correspondence, however, will be mailed solely to the address of record. Petitioner should file a change of correspondence address if the correspondence address is to be updated.

Petitioner is cautioned to avoid submitting personal information in a patent application that may contribute to identity theft. If personal information such as social security numbers, bank account numbers, or credit card numbers are included in documents submitted to the USPTO (other than a check or credit card authorization form PTO-2038 submitted for payment purposes), petitioners should consider redacting such personal information from the documents before submitting them to the USPTO. This type of personal information is never required by the USPTO to support a petition or an application. Petitioner is advised that any information submitted in an application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, information from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450


By FAX: (571) 273-8300
 Attn: Office of Petitions

By hand: Customer Service Window
 Mail Stop Petition
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

Patent No. 5,967,784
Application No. 09/114,697

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Telephone inquiries should be directed to the undersigned at 571-272-3231.


Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Change of Correspondence Address-Patent

Cc: MICHAEL J. POWERS
1303 BLACK SAGE CIRCLE
NOPOMO CA 93444



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Alexandria, VA 22313-1450
www.uspto.gov

**MICROSOFT CORPORATION
ONE MICROSOFT WAY
REDMOND WA 98052**

MAILED
APR 11 2011
OFFICE OF PETITIONS

In re Patent No. 5,963,208
Issue Date: October 5, 1999
Application No. 09/115,459
Filed: July 14, 1998
Attorney Docket No. 102368-1101

NOTICE

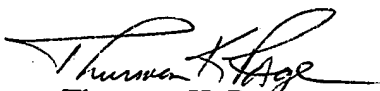
This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to Diane Goodwyn at (571) 272-6735.


Thurman K. Page
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6469458 :
Issue Date: October 22,2002 :
Application No. 09116251 :DECISION GRANTING PETITION
Filed: July 16,1998 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 0102/0017 :

This is a decision on the electronic petition, filed March 22,2012 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 22,2012 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6469458	2002-10-22	09116251	1998-07-16	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input checked="" type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Marvin Motsenbocker/	Date (YYYY-MM-DD)	2012-03-22
Name	Marvin A. Motsenbocker	Registration Number	36614
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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MCDERMOTT WILL & EMERY LLP
11682 EL CAMINO REAL
SUITE 400
SAN DIEGO CA 92130

MAILED

AUG 26 2010

In re Patent No. 6,555,398
Issue Date: April 29, 2003
Application No. 09/422,174
Filed: October 22, 1999
Attorney Docket No. MSLIN99-001

OFFICE OF PETITIONS
ON PETITION

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02/28/11

TO SPE OF : ART UNIT 3729

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/117,970 Patent No.: 6233818

CofC mailroom date: 12/8/10

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

RoChaun Johnson
Certificates of Correction Branch
703-756-1580

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

Comments: Approved

/Derris H. Banks/

SPE
3729

Art Unit



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Alexandria, VA 22313-1450
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COZEN O'CONNOR
277 PARK AVENUE
20TH FLOOR
NEW YORK NY 10172

MAILED
DEC 13 2011
OFFICE OF PETITIONS

In re Patent No. 6,076,655
Issue Date: June 20, 2000
Application No. 09/118,611
Filed: July 17, 1998
Attorney Docket No. 914.1105

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to Diane C. Goodwyn at (571) 272-6735.

Thurman K. Page
Petitions Examiner
Office of Petitions



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COZEN O'CONNOR
277 PARK AVENUE
20TH FLOOR
NEW YORK NY 10172

MAILED
DEC 13 2011
OFFICE OF PETITIONS

In re Patent No. 6,073,753
Issue Date: June 13, 2000
Application No. 09/118,708
Filed: July 17, 1998
Attorney Docket No. 914.1106

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

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Thurman K. Page
Petitions Examiner
Office of Petitions

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6295054	2001-09-25	09119975	1998-07-21	KAJ-1P1B

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|---------------------------------|-----|--------|
| <input type="radio"/> 3 ½ year | | (1551) |
| <input type="radio"/> 7 ½ year | | (1552) |
| <input type="radio"/> 11 ½ year | | (1553) |

Small Entity

- | | Fee | Code |
|---|-----|--------|
| <input type="radio"/> 3 ½ year | | (2551) |
| <input checked="" type="radio"/> 7 ½ year | | (2552) |
| <input type="radio"/> 11 ½ year | | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Kendal M. Sheets/	Date (YYYY-MM-DD)	2010-10-01
Name	Kendal M. Sheets	Registration Number	47077
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6295054 :
Issue Date: September 25, 2001 :
Application No. 09119975 :DECISION GRANTING PETITION
Filed: July 21, 1998 :UNDER 37 CFR 1.378(c)
Attorney Docket No. KAJ-1P1B :

This is a decision on the electronic petition, filed October 4, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 4, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

CPA GLOBAL LIMITED
2318 Mill Road 12th Floor
ALEXANDRIA VA 22314

MAILED
JUL 25 2011
OFFICE OF PETITIONS

In re Patent No. 6,295,054	:	
Issued: 09/25/2001	:	
Application No. 09/119,975	:	NOTICE
Filed: 09/25/2001	:	
Title: PIXEL BUFFER CIRCUITS FOR	:	
IMPLEMENTING IMPROVED METHODS	:	
OF DISPLAYING GREY-SCALE OR	:	
COLOR IMAGES	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed July 8, 2011.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Legal Department (M-495)
P.O. Box 1926
Spartanburg SC 29304

MAILED
OCT 26 2011
OFFICE OF PETITIONS

In re Patent No. 6,211,099
Issued: 04/03/2001
Application No. 09/119,992
Filed: 07/21/1998
Attorney Docket No. 6347

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed October 11, 2011.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

BROWN RUDNICK LLP
ONE FINANCIAL CENTER
BOSTON, MA 02111

MAILED

FEB 29 2012

OFFICE OF PETITIONS

In re Patent No. 6,404,779	:	
Issue Date: June 11, 2002	:	
Application No. 09/120,448	:	ON PETITION
Filed: July 22, 1998	:	
Patentee: John L. Silvers	:	

This is a decision on the petition under 37 CFR 1.378(c), filed January 23, 2012, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

This patent issued on June 11, 2002. Accordingly, this patent expired on June 11, 2010 for failure to pay the second maintenance fee. Since the petition was submitted within twenty-four months after the six – month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

A petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. 41(c) and 37 CFR 1.378(c) must be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2).

The petition lacks item (1) above. In this regard, the petition is not signed, as required by 37 CFR 1.378(d), by an attorney or agent registered to practice before the Patent and Trademark Office, the patentee, or the assignee or other party in interest as established by 37 CFR 3.73(b).¹

Consequently, the petition is considered not to contain a proper statement of unintentional delay and cannot be accepted.

¹37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment submitted for recording) or by specifying (e.g., reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office.

If reconsideration of this decision is desired, a properly signed petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this 2-month time limit can be granted under 37 CFR 1.136(a) or (b). **Any such petition for reconsideration must be accompanied by the petition fee of \$400 as set forth in 37 CFR 1.17(f).** The petition for reconsideration must also include any lacking item(s) noted above, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director. For applicant's convenience a Statement under 37 CFR 3.73(b) is attached.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail: Mail Stop PETITIONS
 Commissioner for Patents
 Post Office Box 1450
 Alexandria, VA 22313-1450

By hand: Customer Service Window
 Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

By fax: (571) 273-8300
 ATTN: Office of Petitions

By Internet: EFS-Web²

If petitioner does not wish to pursue reinstatement of this expired patent, petitioner may request a refund of the \$1,425 maintenance fee and the \$1,640 surcharge fee submitted with the petition. The request should be made in writing and addressed to: Mail Stop 16, Director of the U.S. Patent and Trademark Office, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

² www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Attachment: Statement Under 37 CFR 3.73(b)

cc: ROY L. SALOMONS
63-95 AUSTIN STREET, APT. 4 J
FOREST HILLS, NY 11374

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: _____

Application No./Patent No.: _____ Filed/Issue Date: _____

Titled: _____

_____, a _____
(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☐ the assignee of the entire right, title, and interest in;
2. ☐ an assignee of less than the entire right, title, and interest in
(The extent (by percentage) of its ownership interest is _____ %); or
3. ☐ the assignee of an undivided interest in the entirety of (a complete assignment from one of the joint inventors was made)

the patent application/patent identified above, by virtue of either:

- A. ☐ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy therefore is attached.

OR

- B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

1. From: _____ To: _____

The document was recorded in the United States Patent and Trademark Office at

Reel _____, Frame _____, or for which a copy thereof is attached.

2. From: _____ To: _____

The document was recorded in the United States Patent and Trademark Office at

Reel _____, Frame _____, or for which a copy thereof is attached.

3. From: _____ To: _____

The document was recorded in the United States Patent and Trademark Office at

Reel _____, Frame _____, or for which a copy thereof is attached.

- ☐ Additional documents in the chain of title are listed on a supplemental sheet(s).

- ☐ As required by 37 CFR 3.73(b)(1)(i), the documentary evidence of the chain of title from the original owner to the assignee was, or concurrently is being, submitted for recordation pursuant to 37 CFR 3.11.

[NOTE: A separate copy (i.e., a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

Signature_____
Date_____
Printed or Typed Name_____
Title

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BANNER & WITCOFF, LTD.
28 STATE STREET
SUITE 1800
BOSTON, MA 02109-1701

MAILED
MAR 29 2012
OFFICE OF PETITIONS

In re Patent No. 6,404,779	:	
Issue Date: June 11, 2002	:	
Application No. 09/120,448	:	ON PETITION
Filed: July 22, 1998	:	
Attorney Docket No.: 007226.00003	:	

This is a decision on the renewed petition under 37 CFR 1.378(e), filed February 27, 2012, requesting reconsideration of a prior decision which refused to accept the delayed payment of a maintenance fee under 37 CFR 1.378(c) for the above identified patent.

The petition is not signed by a registered patent attorney or agent of record. However, in accordance with 37 CFR 1.34, the signature of Ernest V. Linek appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

The petition is **GRANTED**.

This patent expired on June 11, 2010 for failure to pay the second maintenance fee. On January 23, 2012, a petition under the provisions of 37 CFR 1.378(c) was filed; however, the petition was dismissed in a decision mailed February 23, 2012. In response on February 27, 2012, the present petition was filed, including the \$400 petition fee set forth in 37 CFR 1.17(f).

A petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. 41(c) and 37 CFR 1.378(c) must be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; and (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2).

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nonetheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office. Receipt is acknowledged of the requisite maintenance fee and surcharge.

In view of the above, the 7 ½ year maintenance fee in this case is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Petitioner will not receive future correspondence related to maintenance fees for the patent unless a "Fee Address" Indication Form (see PTO/SB/47) and Request for Customer Number (see PTO/SB/125) are submitted.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3204.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SITRICK & SITRICK
8340 N LINCOLN AVENUE SUITE 201
SKOKIE, IL 60077

MAILED

JUL 05 2011

OFFICE OF PETITIONS

In re Patent No. 6,442,135
Issue Date: August 27, 2002
Application No. 09/120,672
Filed: July 22, 1998
Attorney Docket No. SYN 1703

:
:
:
:
:

ON PETITION

This is a decision in response to a petition filed June 6, 2011, under 37 CFR 1.378(c), to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on August 28, 2010, for failure to pay the 7 ½ year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6059.

Alicia Kelley-Collier
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6459848 :
Issue Date: October 1, 2002 :
Application No. 09120734 :DECISION GRANTING PETITION
Filed: July 23, 1998 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 0102/0018 :

This is a decision on the electronic petition, filed March 22, 2012, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 22, 2012. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6459848	2002-10-01	09120734	1998-07-23	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input checked="" type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Marvin Motsenbocker/	Date (YYYY-MM-DD)	2012-03-22
Name	Marvin A. Motsenbocker	Registration Number	36614
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/07/11

TO SPE OF : ART UNIT 2629

SUBJECT : Request for Certificate of Correction for Appl. No.: 09120983 Patent No.: 6816145

CofC mailroom date: 10/31/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)

Randolph Square – 9D10-A

Palm Location 7580

You can fax the Directors/SPE response to 571-273-3421

Note: **Should the changes to claim 15 be approved?**

APPROVED

By aelsen at 2:13 pm, Nov 07, 2011

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

Comments: _____

/ALEXANDER EISEN/

2629

SPE

Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20111107

DATE : November 07, 2011

TO SPE OF : ART UNIT 2629

SUBJECT : Request for Certificate of Correction on Patent No.: 6,816,145

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:

Certificates of Correction Branch - ST (South Tower) 9A22

Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Certificates of Correction Branch

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

Comments:

/ALEXANDER EISEN/
Supervisory Patent Examiner.Art Unit 2629

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6201568	2001-03-13	09121155	1998-07-22	2170162-00006

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|---------------------------------|-----|--------|
| <input type="radio"/> 3 ½ year | | (1551) |
| <input type="radio"/> 7 ½ year | | (1552) |
| <input type="radio"/> 11 ½ year | | (1553) |

Small Entity

- | | Fee | Code |
|---|-----|--------|
| <input type="radio"/> 3 ½ year | | (2551) |
| <input checked="" type="radio"/> 7 ½ year | | (2552) |
| <input type="radio"/> 11 ½ year | | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☐ An attorney or agent registered to practice before the Patent and Trademark Office
- ☒ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Sole Patentee			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/d scott watkins/	Date (YYYY-MM-DD)	2011-03-04
Name	D. Scott Watkins		
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

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3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
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6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
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UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6201568 :
Issue Date: March 13, 2001 :
Application No. 09121155 :DECISION GRANTING PETITION
Filed: July 22, 1998 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 6W10-1-020 :

This is a decision on the electronic petition, filed March 12, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 12, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

RADER FISHMAN & GRAUER PLLC
39533 Woodward Avenue
Bloomfield Hills, MI 48304

MAILED

SEP 08 2011

OFFICE OF PETITIONS

In re Patent No. 6,079,025	:	
Issued: 06/20/2000	:	
Application No. 09/121,352	:	NOTICE
Filed: 07/23/1998	:	
Attorney Docket No. A-63856-011/	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed August 10, 2011.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6162033 :
Issue Date: December 19, 2000 :
Application No. 09121384 :DECISION GRANTING PETITION
Filed: July 23, 1998 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 60246-029 :

This is a decision on the electronic petition, filed September 8, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 8, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6162033	2000-12-19	09121384	1998-07-23	60298-633 PUS1

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input checked="" type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

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Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Theodore W. Olds/	Date (YYYY-MM-DD)	2010-09-08
Name	Theodore W. Olds	Registration Number	33080
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

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The information provided by you in this form will be subject to the following routine uses:

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2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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BORSON LAW GROUP, PC
1078 CAROL LANE, #200
LAFAYETTE, CA 94549

MAILED

AUG 19 2010

OFFICE OF PETITIONS

In re Application of
Robert Bridenbaugh, et al.
Application No. 09/121,798
Filed: July 23, 1998
Attorney Docket No.: ACACIA-01002US0

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed June 21, 2010.

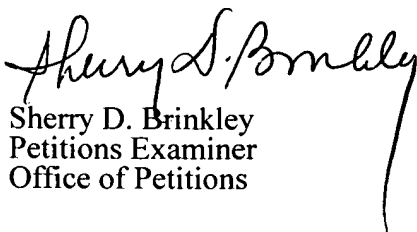
The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before May 25, 2010, as required by the Notice of Allowance and Fee(s) Due mailed February 25, 2010. A Notice of Abandonment was subsequently mailed on June 14, 2010. On June 21, 2010, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the \$1,510 issue fee and \$300 publication fee; (2) the petition fee of \$1,620; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Data Management to be processed into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.


Sherry D. Brinkley
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 5923426 :
Issue Date: July 13, 1999 :
Application No. 09121985 :DECISION GRANTING PETITION
Filed: July 24, 1998 :UNDER 37 CFR 1.378(c)
Attorney Docket No. MHO-030-P2 :

This is a decision on the electronic petition, filed August 26, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 26, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5923426	1999-07-13	09121985	1998-07-24	MHO-030-P2

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input checked="" type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☐ An attorney or agent registered to practice before the Patent and Trademark Office
- ☒ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Sole Patentee			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/Robert M. Perchak/	Date (YYYY-MM-DD)	2011-08-26
Name	Robert M. Perchak		
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6301242 :
Issue Date: October 9, 2001 :
Application No. 09122565 :DECISION GRANTING PETITION
Filed: July 24, 1998 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 211/237 :

This is a decision on the electronic petition, filed October 18, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 18, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6301242	2001-10-09	09122565	1998-07-24	211/237

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input checked="" type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Kendal M. Sheets/	Date (YYYY-MM-DD)	2010-10-15
Name	Kendal M. Sheets	Registration Number	47077
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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GIFFORD, KRASS, SPRINKLE, ANDERSON & CITKOWSKI, P.C
PO BOX 7021
TROY MI 48007-7021

MAILED

JUL 18 2011

OFFICE OF PETITIONS

In re Application of :
Michael A. Masini :
Application No. 09/123,148 :
Patent No. 6,004,353 :
Filed: July 27, 1998 :
Attorney Docket No. MED-00802/29 :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-2991.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DW Jan-11

Paper No. 10

WILLIAM H MEISE
P O BOX 344
PENNS PARK PA 18943

MAILED

JAN 31 2011

OFFICE OF PETITIONS

In re Patent No. 5968067 :
Issue Date: 10/19/1999 :
Application Number: 09/123277 : LETTER DISMISSING PETITION
Filing Date: 07/28/1998 :
For: SURGICAL PENILE DILATOR :
INSTRUMENT AND METHOD FOR ITS :
USE :

This is a decision on the petition filed on November 12, 2010, under 37 CFR 1.377 to review the prior refusal of the PTO to accept and record a timely maintenance fee payment for the above-identified patent.

The petition is **dismissed**.

The patent issued on October 19, 1999. The first and second maintenance fees were timely paid. The window for payment of the third maintenance fee opened on October 19, 2010. The maintenance fee may be paid until April 19, 2011, or, with a surcharge for late payment, from April 20, 2011 through October 19, 2011.

Petitioners state that payment of the third maintenance fee was timely proffered, but was applied not applied to the correct patent number.

Petitioners request that the maintenance fee be applied to the above-referenced patent.

A grantable petition under 37 CFR 1.377 to accept and record a maintenance fee requires:

(1) submission of the petition be submitted within two months of the action complained of;

- (2) payment of the petition fee;
- (3) proof that the maintenance fee, and any applicable surcharge, was received in the Office prior to the date of patent expiration, and
- (4) proof that proper identification of the patent and application numbers under 37 CFR 1.366(c) was submitted with the maintenance fee payment.

The petition lacks item (2) and (4).

In regards to item (2), a petition fee of \$200.00 is required upon filing of a petition under 37 CFR 1.377. No petition fee has been submitted. Therefore, the merits of this petition will not be discussed. Petitioner must submit the required fee with a renewed petition.

In regards to item (4), the Office cannot determine whether at least one mandatory identifier was correct as required by 37 CFR 1.366(c). While petitioner has provided a copy of the check submitted as payment of the maintenance fee, a copy of the transmittal letter containing the proper identifying information has not been provided. As such, petitioners must provide a copy of any transmittal letter previously sent to the Office in order for the Office to determine whether or not the present petition is grantable.

Any renewed petition should be submitted within **TWO (2) MONTHS** to be considered timely.

The address in the petition is different than the correspondence address. A courtesy copy of this decision is being mailed to the address in the petition. All future correspondence, however, will be mailed solely to the address of record. A change of correspondence address (copy enclosed) should be completed and returned if the correspondence address need to be updated.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition,
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (571)273-8300
Attn: Office of Petitions

By hand: Customer Service Window

Patent No. 5,968,067

3

Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Any questions concerning this matter may be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: PTO/SB/123

Cf: MICHAEL MOOREVILLE, MD
287 SYCAMORE AVENUE
MERION STATION PA 19066



UNITED STATES PATENT AND TRADEMARK OFFICE

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DWM MCR-11

Paper No.

WILLIAM H MEISE
P O BOX 344
PENNS PARK PA 18943

MAILED

MAR 31 2011

OFFICE OF PETITIONS

In re Patent No. 5,968,067 :
Issue Date: 10/19/1999 :
Application Number: 09/123,277 : LETTER DISMISSING PETITION
Filing Date: 07/28/1998 :
For: SURGICAL PENILE DILATOR :
INSTRUMENT AND METHOD FOR ITS :
USE :

This is a decision in reference to the paper filed on February 14, 2011, styled as a renewed petition under 37 CFR 1.377, to review the prior refusal of the PTO to accept and record a timely maintenance fee payment for the above-identified patent.

The petition is **dismissed**.

The patent issued on October 19, 1999. The first and second maintenance fees were timely paid. The window for payment of the third maintenance fee opened on October 19, 2010. The maintenance fee may be paid until April 19, 2011, or, with a surcharge for late payment, from April 20, 2011 through October 19, 2011.

At the outset, the papers are not properly signed. 37 CFR 1.33(b) states that amendments and other papers filed in an application must be signed by a patent practitioner or all of the applicants for patent. The subject petition is unsigned, and the cover letter is signed only by joint inventor Michael Mooreville. A renewed petition signed by all joint inventors is required to be filed if reconsideration is requested.

Specifically, the unsigned paper filed with the petition states:

I received a notification letter to pay the maintenance fee on my patent on 11/23/09, which I paid on 01/05/10, but I did not pay attention to the patent number, and I just realized that your letter to me had my name attached to the wrong patent (5,740,805). Please correct your error and apply the payment to the right patent (5,968,067). I am including proof of payment, your letter with the wrong patent number, and the previous maintenance fee reminder from 2003.

A grantable petition under 37 CFR 1.377 to accept and record a maintenance fee requires:

- (1) submission of the petition be submitted within two months of the action complained of;
- (2) payment of the petition fee;
- (3) proof that the maintenance fee, and any applicable surcharge, was received in the Office prior to the date of patent expiration, and
- (4) proof that proper identification of the patent and application numbers under 37 CFR 1.366(c) was submitted with the maintenance fee payment.

The petition lacks item (4).

In regards to item (4), the showing of record does not indicate that at least one mandatory identifier was correct as required by 37 CFR 1.366(c).

As stated in MPEP 2580:

A petition under 37 CFR 1.377 would not be appropriate where there is a complete failure to include at least one correct mandatory identifier as required by 37 CFR 1.366(c) for the patent since no evidence would be present as to the patent on which the maintenance fee was intended to be paid. If the maintenance fee payment with an incorrect mandatory identifier was made near the end of the grace period, the patent might expire since the Office would not credit the fee to the patent. A petition under 37 CFR 1.377 would not be appropriate where the patentee paid a maintenance fee on one patent when the patentee intended to pay the maintenance fee on a different patent but through error identified the wrong patent number and application number. Likewise, a petition under 37 CFR 1.377 would not be appropriate where the entire maintenance fee

payment, including any necessary surcharge, was not filed prior to expiration of the patent.

Further, with regards to the request for refund, 37 CFR 1.26(a) states that:

The Director may refund any fee paid by mistake or in excess of that required. A change of purpose after the payment of a fee, such as when a party desires to withdraw a patent filing for which the fee was paid, including an application, an appeal, or a request for an oral hearing, will not entitle a party to a refund of such fee.

MPEP 607.02 states, in pertinent part that:

Under 35 U.S.C. 42(d) and 37 CFR 1.26, the Office may refund: (1) a fee paid by mistake (e.g., fee paid when no fee is required); or (2) any fee paid in excess of the amount of fee that is required. See *Ex parte Grady*, 59 USPQ 276, 277 (Comm'r Pat. 1943) (the statutory authorization for the refund of fees under the "by mistake" clause is applicable only to a mistake relating to the fee payment).

When an applicant or patentee takes an action "by mistake" (e.g., files an application or maintains a patent in force "by mistake"), the submission of fees required to take that action (e.g., a filing fee submitted with such application or a maintenance fee submitted for such patent) is not a "fee paid by mistake" within the meaning of 35 U.S.C. 42(d).

The showing of record is that the USPTO mailed a Maintenance Fee Reminder on November 23, 1999, to petitioner Michael Mooreville listing his address as that of record for U.S. Patent No. 5,740,805, and stating that the 12 year maintenance fee payment was due for that patent. While it is regrettable that the subject Maintenance Fee Reminder appears to have been mailed in error to the subject address, 37 CFR 1.377 nonetheless requires proof that the mandatory identifiers (patent number and application number) for the patent which petitioner intended to maintain in force, were included with the maintenance fee payment. In the absence of said identifiers, the showing of record is that petitioner intended to pay the maintenance fee for

the patent listed which was maintained in force (i.e., Patent No. 5,740,805). Simply put, it is the patentee's responsibility to verify that the payment is directed to the patent number and application number for the patent which patentee actually intends to maintain in force. In the absence of such information (the mandatory identifiers as specified above), the Office cannot conclude that, based on the information present at the time the maintenance fee payment was received, the patent to which the payment was applied, (i.e., U.S. Patent No. 5,740,805) was not the patent which petitioner intended to maintain in force, or that the maintenance fee was applied to the aforementioned patent in error.

As such, the request for a refund of the maintenance fee is dismissed.

Any renewed petition should be submitted within **TWO (2) MONTHS** to be considered timely.

The address in the petition is different than the correspondence address. A courtesy copy of this decision is being mailed to the address in the petition. All future correspondence, however, will be mailed solely to the address of record. A change of correspondence address (copy enclosed) should be completed and returned if the correspondence address need to be updated.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition,
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (571)273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

A reply may also be filed via the EFS-Web system of the USPTO.

Patent No. 5,968,067

5

Any questions concerning this matter may be directed to the undersigned at (571) 272-3231.

A handwritten signature in cursive script, appearing to read "D Wood".

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: PTO/SB/123

Cf: MICHAEL MOOREVILLE, MD
287 SYCAMORE AVENUE
MERION STATION PA 19066

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

CHANGE OF CORRESPONDENCE ADDRESS Patent

Address to:
Mail Stop Post Issue
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Patent Number

Issue Date

Application Number

Filing Date

First Named Inventor

Attorney Docket
Number

Please change the Correspondence Address for the above-identified patent to:

☐

The address associated with Customer Number:

OR

☐Firm or
Individual Name

Address

City

State

ZIP

Country

Telephone

Email

This form cannot be used to change the data associated with a Customer Number. To change the data associated with an existing Customer Number use "Request for Customer Number Data Change" (PTO/SB/124).

This form will not affect any "fee address" provided for the above-identified patent. To change a "fee address" use the "Fee Address Indication Form" (PTO/SB/47).

I am the:

☐

Patentee.

☐

Assignee of record of the entire interest. See 37 CFR 3.71.
Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96).

☐

Attorney or agent of record. Registration Number _____

Signature

Typed or
Printed Name

Date

Telephone

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.

☐

*Total of _____ forms are submitted.

This collection of information is required by 37 CFR 1.33. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 3 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Post Issue, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Jan-12

WILLIAM H MEISE
P O BOX 344
PENNS PARK PA 18943

MAILED
JAN 12 2012
OFFICE OF PETITIONS

In re Patent No. 5,968,067 :
Issued: 10/19/1999 :
Application No. 09/123,277 : ON PETITION
Filed: 07/28/2008 :
For: SURGICAL PENILE DILATOR :
INSTRUMENT AND METHOD FOR ITS :
USE :

This is a decision on the paper styled as a petition under 37 CFR 1.137(a) filed on December 15, 2011.

The petition is **DISMISSED as moot.**

At the outset, the petition is not properly signed. The inventive entity for the subject patent is Michael Mooreville and Sorin Adrian. The subject petition, however, is signed only by inventor Mooreville. 37 CFR 1.33(b) states, in pertinent part, that amendments and other papers filed in an application must be signed by all of the applicants for patent or a registered patent practitioner. Any future petitions or other papers filed in this patent must be signed in accordance with 37 CFR 1.33(b).

37 CFR 1.137(a) states, in pertinent part, that if the delay in reply by applicant or patent owner was unavoidable, a petition may be filed pursuant to this paragraph to revive an abandoned application.

The subject application for patent issued as U.S. Patent No. 5,968,067 on October 19, 1999. As the application has issued as a patent, the application is no longer pending and cannot be revived. A petition under 37 CFR 1.137(a) cannot be decided on the merits in an application that has issued as a patent. The petition is therefore dismissed as moot.


Under the circumstances of this case, petitioners may wish to consider the filing of a petition under 37 CFR 1.378(b) to accept an unavoidably delayed maintenance fee. The petition must be accompanied by the 11 ½ year maintenance fee, currently \$2,365.00 for a small entity, and the surcharge under 37 CFR 1.20(i)(1) of 700.00. The \$270.00 paid on December 15, 2011 may be applied to

the maintenance fee and surcharge, leaving a balance due of \$2,795.00 (2,365.00 + 700.00 - 270.00).

Patentees are advised to use the attached form in completing a petition under 37 CFR 1.378(b).

It is further noted that the address in the petition is different than the correspondence address. A courtesy copy of this decision is being mailed to the address in the petition. All future correspondence, however, will be mailed solely to the address of record. A change of correspondence address (copy enclosed) should be filed if the correspondence address needs to be updated.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.


Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

cc: DR. MICHAEL MOOREVILLE
272 N. LANSLOWNE AV
LANSLOWNE PA 19050

Encl: PTO/SB/65
PTO/SB/123



UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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GREENLEE SULLIVAN P.C.
4875 PEARL EAST CIRCLE
SUITE 200
BOULDER CO 80301

MAILED

JUN 02 2011

OFFICE OF PETITIONS

In re Patent No. 7,179,615	:	
Issue Date: February 20, 2007	:	
Application No. 09/124,485	:	ON PETITION
Filed: July 29, 1998	:	
Attorney Docket No. 73-97	:	

This is a decision on the petition under 37 CFR 1.378(c), filed May 12, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired at midnight February 20, 2011, for failure to pay the 3½ year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the addresses noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Petitioners' will not receive future correspondence related to maintenance fees for the patent unless a "Fee Address" Indication Form (see PTO/SB/47) and Request for Customer Number (see PTO/SB/125) are submitted.

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

A handwritten signature in black ink, appearing to be 'JoAnne Burke', written over the printed name.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: V.K. Taylor
P.O. Box 41096
Bldg 58
Royal Darwin Hospital Campus
Rocklands Drive
Casuarina, NT 0811, Australia

cc: Rose Ritts, PhD
Duke University, OLV
2812 Erwin Road
Suite 306
Box 90083
Durham, NC 27705

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100217

DATE : September 26, 2011

TO SPE OF : ART UNIT 1632

SUBJECT : Request for Certificate of Correction on Patent No.: 6,395,960

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:

Certificates of Correction Branch - PK 3-910

Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Certificates of Correction Branch

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☐ **Approved**

All changes apply.

☒ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

Comments:

The newly added text referring to "SEQ ID NO: 138" should refer to SEQ ID NO: 137 instead.

SPE: /Peter Paras/ **Art Unit** 1632



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No.	6305773	:
Issue Date:	October 23, 2001	:
Application No.	09124636	:DECISION GRANTING PETITION
Filed:	July 29, 1998	:UNDER 37 CFR 1.378(c)
Attorney Docket No.	6411-US-0	:

This is a decision on the electronic petition, filed October 18, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 18, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6305773	2001-10-23	09124636	1998-07-29	6411-US-0

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input checked="" type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Kendal M. Sheets/	Date (YYYY-MM-DD)	2010-10-15
Name	Kendal M. Sheets	Registration Number	47077
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

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1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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Alexandria, VA 22313-1450
www.uspto.gov

WILLIAM S. GALLIANI
777 SIXTH STREET NW SUITE 1100
WASHINGTON, DC 20001

MAILED

MAY 10 2011

OFFICE OF PETITIONS

In re Application of	:	
Lamping et al.	:	DECISION ON PETITION
Application No. 09/124,805	:	TO WITHDRAW
Filed: July 29, 1998	:	FROM RECORD
Attorney Docket No. 34874-648F01US	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 8, 2011.


The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office will require the practitioner(s) to certify that he, she or they have: (1) given reasonable notice to the client, prior to the expiration of the reply period, which the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any replies that may be due and the time frame within which the client must respond, pursuant to 37 CFR 10.40 (c).

The request was signed by William S. Galliani on behalf of all attorneys/agents of record who are associated with Customer Number 23419. All attorneys/agents associated with Customer Number 23419 have been withdrawn. Applicants are reminded that there is no attorney of record at this time.

Although the Office does not normally accept Request to Withdraw as Attorney or Agent which indicate the correspondence address to be changed to that of another law firm, the USPTO database shows that the current correspondence address of record has the address associated with Customer Number 83282 since October 31, 2008. Therefore, all future correspondence will continue to be directed to the address indicated below. However, the applicants are again reminded that there is no attorney of record. Only the address is associated with Customer Number 83282, not the attorneys.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.


Liana Walsh
Petitions Examiner
Office of Petitions

cc: MINTZ LEVIN COHN FERRIS GLOVSKY POPEO PC
ONE FINANCIAL CENTER
BOSTON MA 02111

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03/29/11

TO SPE OF : ART UNIT 1646

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/125635 Patent No.: 6562589

CofC mailroom date: 03/23/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome

Certificates of Correction Branch
571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

Comments: _____

Gary B. Nickol
GARY B. NICKOL, PH.D.
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,388,693	2002-05-14	09/127,347	1998-07-31	105009.61900D1

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input checked="" type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Michael H. Jacobs/	Date (YYYY-MM-DD)	2010-09-08
Name	Michael H. Jacobs	Registration Number	41870
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

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5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6388693 :
Issue Date: May 14, 2002 :
Application No. 09127347 :DECISION GRANTING PETITION
Filed: July 31, 1998 :UNDER 37 CFR 1.378(c)
Attorney Docket No. P48-1036-1 :

This is a decision on the electronic petition, filed September 8, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 8, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



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POLSTER LIEDER WOODRUFF & LUCCHESI LC
12412 POWERSCOURT DR SUITE 200
ST LOUIS MO 63131-3615

MAILED
OCT 24 2011
OFFICE OF PETITIONS

In re
Huegerich, et al.
Application No. 09/127,616
Filed: August 1, 1998
Patent No. 6,016,935
Issued: January 25, 2000
Attorney Docket No. 7005

DECISION

This is a decision on the fee deficiency submission under 37 CFR 1.28(c), filed September 23, 2011.

The fee deficiency submission under 37 CFR 1.28 of \$2055 is hereby accepted.

The change of status to large entity has been entered.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions



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Alexandria, VA 22313-1450
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**J GEORG SEKA
TOWNSEND AND TOWNSEND CREW
EIGHTH FLOOR
TWO EMBARCADERO CENTER
SAN FRANCISCO CA 94111-3834**

MAILED

SEP 07 2010

OFFICE OF PETITIONS

In re Patent No. 7,112,903
Issued: September 26, 2006
Application No. 09/127,644
Filed: July 31, 1998
Attorney Docket No. 15258-337

:
:
:
:
:

ON PETITION


This is a notice regarding your request, August 5, 2010, for acceptance of a fee deficiency submission under 37 CFR 1.28.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.


Liana Walsh
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**PARKHURST WENDEL & BURR
1421 PRINCE STREET
SUITE 210
ALEXANDRIA VA 22314**

**MAILED
AUG 03 2011
OFFICE OF PETITIONS**

In re Patent No. 6,106,448 :
Issued: August 22, 2000 :
Application No. 09/128,462 :
Filed: August 4, 1998 :
Attorney Docket No. ISHP:020 :

ON PETITION

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed June 10, 2011.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Further, the address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Roger W. Parkhurst
Steptoe & Johnson LLP
1330 Connecticut Avenue, N.W.
Washington, D.C. 20036-1795



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ELOISE A. GONZALES
2450 W. GLENROSA AVE., # 15
PHOENIX, AZ 85015

MAILED

MAR 30 2011

OFFICE OF PETITIONS

In re Patent No. 6,077,007 :
Issue Date: June 20, 2000 :
Application No. 09/128,504 :
Filed: August 3, 1998 :
Title of Invention: **PICK-UP TRUCK BED** :
ORGANIZER AND METHOD

ON PETITION

This is a decision on the renewed petition filed under 37 CFR 1.378(b), March 18, 2010, to accept the delayed payment of the maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this 2-month time limit can be granted under 37 CFR 1.136(a) or (b). The petition for reconsideration should include an exhaustive attempt to provide the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner.

The patent issued on June 20, 2000. The second maintenance fee due could have been paid during the period from June 20, 2007 to December 20, 2007 or, with a surcharge during the period from December 21, 2007 to June 20, 2008. Accordingly, this patent expired on June 20, 2008 for failure to timely remit the maintenance fee.

A petition to accept the delayed maintenance fee under 35 U.S.C. § 41(c) and 37 CFR 1.378(b) must be accompanied by (1) an adequate, verified showing that the delay was unavoidable, since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent, (2) payment of the appropriate maintenance fee, unless previously submitted, and (3) payment of the surcharge set forth in 37 CFR 1.20(l)(1).

A petition filed August 24, 2009 was dismissed in a decision mailed December 23, 2009 because the fees submitted were deficient. On June 19, 2009, fees in the amount of \$1510 were submitted, of which, the maintenance fees in the amount of \$1240 were applied.

Petitioner was advised that it did not appear that Ms. Gonzales or Ms. Porter had standing to file the petition, the fees submitted were deficient and therefore, as the petition fee is jurisdictional, the Office cannot consider the substantive aspect of the petition in the absence of the petition fee.

This petition still lacks item (3) above.

While the petition for reconsideration of this decision is accompanied by the petition fee of \$400 as set forth in 37 CFR 1.17(h), the balance due for the surcharge remains unpaid. At this writing the surcharge pursuant to 37 CFR 1.20(i)(1) is set at \$700. As \$1510 was previously paid and as \$1240 for the second maintenance fee was deducted from that amount, petitioner owes \$430 to make up the difference between that which is due and that which has been paid.

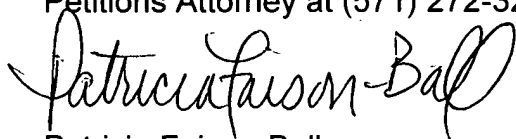
The petition cannot be addressed on the merits. No decision will be rendered in this matter as it relates to the standing issue or the whether or not the petition meets the unavoidable standard.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
 Commissioner for Patents
 Post Office Box 1450
 Alexandria, VA 22313-1450

The centralized facsimile number is **(571) 273-8300**.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

A handwritten signature in black ink, reading "Patricia Faison-Ball". The signature is fluid and cursive, with the first name "Patricia" being the most prominent part.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paul L. Patterson, Jr.
402 SS. Nile St.
Aurora CO 80012

MAILED

FEB 25 2011

OFFICE OF PETITIONS

ON PETITION

In re Patent No. 5,998,735 :
Issue Date: December 7, 1999 :
Application No. 09/128,614 :
Filed: August 3, 1998 :
Title: Safety Device For An Electrical Outlet :

This is a decision on the petition under 37 CFR 1.378(b), filed October 19, 2010, to accept the unavoidably delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this 2-month time limit can be granted under 37 CFR 1.136(a) or (b). **Any such petition for reconsideration must be accompanied by the petition fee of \$400 as set forth in 37 CFR 1.17(f).** The petition for reconsideration should include an exhaustive attempt to provide the lacking item(s) noted below, since, after a decision on the petition for reconsideration, the Director will undertake no further reconsideration or review of the matter.

A petition to accept the delayed payment of a maintenance fee under 35 USC 41(c) and 37 CFR 1.378(b) must be accompanied by (1) an adequate showing that the delay was unavoidable, since reasonable care was taken to insure that the maintenance fee would be paid timely, (2) payment of the appropriate maintenance fee, unless previously submitted, and (3) payment of the surcharge set forth in 37 CFR 1.20(i)(1). This petition lacks item (3) above.

The Office is in receipt of \$1510.00. However, the 7.5 year maintenance fee is \$1,240 and the unavoidable surcharge is \$700.00. As such there is a \$270 shortage. It should be noted the merits of petitioner's argument to establish unavoidable delay (item 1) have **not** been considered.

The change of address has been entered.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By Hand: U. S. Patent and Trademark Office

Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Telephone inquiries should be directed to the undersigned at (571) 272-3215.

A handwritten signature in black ink, appearing to read "Charlema Grant", with a stylized flourish at the end.

Charlema Grant
Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paul L. Patterson, Jr.
402 SS. Nile St.
Aurora CO 80012

MAILED

JUN 02 2011

OFFICE OF PETITIONS

In re Patent No. 5,998,735
Issue Date: December 7, 1999
Application No. 09/128,614
Filed: August 3, 1998
Title: Safety Device For An Electrical
Outlet

REQUEST FOR INFORMATION

This is in response to the renewed petition under 37 CFR 1.378(b), filed April 22, 2011, to accept the unavoidably delayed payment of a maintenance fee for the above-identified patent.

Although petitioner has provided the \$270 shortage, petitioner has failed to provide the \$400.00 required pursuant to 37 CFR 1.17(f).

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this 2-month time limit can be granted under 37 CFR 1.136(a) or (b). **Any such petition for reconsideration must be accompanied by the petition fee of \$400 as set forth in 37 CFR 1.17(f).** The petition for reconsideration should include an exhaustive attempt to provide the lacking item(s) noted below, since, after a decision on the petition for reconsideration, the Director will undertake no further reconsideration or review of the matter.

A petition to accept the delayed payment of a maintenance fee under 35 USC 41(c) and 37 CFR 1.378(b) must be accompanied by (1) an adequate showing that the delay was unavoidable, since reasonable care was taken to insure that the maintenance fee would be paid timely, (2) payment of the appropriate maintenance fee, unless previously submitted, and (3) payment of the surcharge set forth in 37 CFR 1.20(i)(1).

It should be noted the merits of petitioner's argument to establish unavoidable delay (item 1) have **not** been considered.

Further any renewed petition should include a letter seeking reconsideration with petitioner's name and signature.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
 Commissioner for Patents
 Post Office Box 1450
 Alexandria, VA 22313-1450

By Hand: U. S. Patent and Trademark Office
 Customer Service Window, Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Telephone inquiries should be directed to the undersigned at (571) 272-3215.

A handwritten signature in black ink, appearing to read "Charlema Grant", with a stylized flourish at the end.

Charlema Grant
Attorney
Office of Petitions

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5,936,903	1999-08-10	09/130,652	1998-08-07	LKSP0073USA

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|--|-----|--------|
| <input type="radio"/> 3 ½ year | | (1551) |
| <input type="radio"/> 7 ½ year | | (1552) |
| <input checked="" type="radio"/> 11 ½ year | | (1553) |

Small Entity

- | | Fee | Code |
|---------------------------------|-----|--------|
| <input type="radio"/> 3 ½ year | | (2551) |
| <input type="radio"/> 7 ½ year | | (2552) |
| <input type="radio"/> 11 ½ year | | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Winston Hsu/	Date (YYYY-MM-DD)	2011-09-23
Name	Winston Hsu	Registration Number	41526
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 5936903 :
Issue Date: August 10, 1999 :
Application No. 09130652 :DECISION GRANTING PETITION
Filed: August 7, 1998 :UNDER 37 CFR 1.378(c)
Attorney Docket No. B-3279DIV616 :

This is a decision on the electronic petition, filed September 23, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 23, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 5934963 :
Issue Date: August 10, 1999 :
Application No. 09130674 :DECISION GRANTING PETITION
Filed: August 6, 1998 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 76798 :

This is a decision on the electronic petition, filed March 27, 2012, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 27, 2012. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5934963	1999-08-10	09130674	1998-08-06	76798

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|---------------------------------|-----|--------|
| <input type="radio"/> 3 ½ year | | (1551) |
| <input type="radio"/> 7 ½ year | | (1552) |
| <input type="radio"/> 11 ½ year | | (1553) |

Small Entity

- | | Fee | Code |
|--|-----|--------|
| <input type="radio"/> 3 ½ year | | (2551) |
| <input type="radio"/> 7 ½ year | | (2552) |
| <input checked="" type="radio"/> 11 ½ year | | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Richard W. Goldstein/	Date (YYYY-MM-DD)	2012-03-27
Name	Richard W. Goldstein	Registration Number	36527
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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AUG 17 2010

OFFICE OF PETITIONS

**BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404**

In re Patent No. 6,459,743 :
Issue Date: October 1, 2002 :
Application No. 09/131,205 : **DECISION ON REQUEST FOR REFUND**
Filed: August 7, 1998 :
Attorney Docket No. 027559-009 :

This is a decision on the petition filed May 11, 2010, entitled, "PETITION UNDER 37 CFR § 1.182", which is being treated as a petition under 37 CFR 1.181(no fee), requesting refund of the maintenance fee paid on the above patent.

The request is **DISMISSED**.

Petitioner asserts that on January 4, 2010, the maintenance fee was erroneously paid to the above patent in the amount of \$2,480.00. Petitioner now files the above request for refund of the fees paid on January 4, 2010, and the petition fee (\$400.00) paid with the above petition on May 11, 2010.

The petition states that "The undersigned requests this refund based on the fact that Mr. Ou accidentally paid the maintenance fee of the wrong patent. Namely, on 1/4/10, Mr. Ou erroneously paid the maintenance fee of another patent (i.e., the above-noted Patent No. 6,459,743, which is owned by a company that is not Mr. Ou's client), rather than the intended Maintenance Fee of the patent owned by his client."

Petitioner is advised that 37 CFR 1.366(g) provides that maintenance fees and surcharges relating thereto will not be refunded except in accordance with 37 CFR 1.26 and 128(a). A patentee cannot obtain a refund of a maintenance fee that was due and payable on the patent. Any duplicate payment will be refunded to the fee submitter.

As the maintenance fee paid in U.S. Patent No. 6,459,743 was due and payable at the time that petitioner submitted the fee, the fee is not subject to refund. This is not a situation wherein there has been a duplicate payment made.

Thus, in accordance with 37 CFR 1.366(g), it is not deemed appropriate to refund the maintenance fee paid in U.S. Patent No. 6,459,743. However, since the petition fee (400.00) submitted on May 11, 2010, is not necessary, the petition fee will be refunded in due course to petitioner's credit card account.

Application No. 09/131,205
Patent No. 6,459,743

-2-

A copy of this decision is being mailed to petitioner's address indicated below.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

Cc:

**JACKSON IPG PLLC
106 STARVALE LANE
SHIPMAN, VA 22971**

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6310815	2001-10-30	09131346	1998-08-07	ID 003011

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input checked="" type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/SMG/	Date (YYYY-MM-DD)	2011-01-06
Name	Steven M. Gruskin	Registration Number	36818
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

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3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
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6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
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In re Patent No.	6310815	:
Issue Date:	October 30, 2001	:
Application No.	09131346	:DECISION GRANTING PETITION
Filed:	August 7, 1998	:UNDER 37 CFR 1.378(c)
Attorney Docket No.	49657-126	:

This is a decision on the electronic petition, filed January 6, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 6, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



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DAVID R HALL
2185 S LAREN PKWY
PROVO UT 84606

MAILED

FEB 22 2011

In re Patent No. 6,253,684
Issue Date: July 3, 2001
Application No. 09/131,592
Filed: August 10, 1998
Title: Percussive Shearing Drill Bit

OFFICE OF PETITIONS

DECISION ON PETITION

This is a decision on the petition For Duplicate Letters Patent Under 37 CFR 1.182, filed November 22, 2010, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f).

Petitioner states that the original Letters Patent was lost and has provided the \$400.00 petition fee.

The petition is dismissed because the petition was not filed by a party of interest such as an attorney of record, the applicant(s) or assignee.

There is no indication that Petitioner herein was ever empowered to prosecute the instant application. If Petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted.

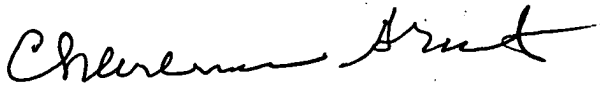
Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

A handwritten signature in cursive script, appearing to read "Charlema Grant", written in black ink.

Charlema Grant
Attorney
Office of Petitions

Cc: Philip W. Townsend, III
Novatek, Inc.
2185 South Larsen Parkway
Provo, Utah 84606



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**GERALD LEVY
KANE, DALSIMER, SULLIVAN, KURUCZ, LEVY,
EISELE AND RICHARD, LLP
711 THIRD AVE.
NEW YORK, NY 10017**

**MAILED
MAR 09 2011
OFFICE OF PETITIONS**

In re Application of
JOHNSON, James R.
Application No. 09/133,755
Filed: August 13, 1998
Attorney Docket No. **500769.122050**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 07, 1999.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to **KANE, DALSIMER, SULLIVAN, KURUCZ, LEVY, EISELE AND RICHARD, LLP** has been revoked by the applicant of the patent application on February 07, 2011. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

/Tredelle D. Jackson/
Petitions Examiner
Office of Petitions

cc: **DAY PITNEY LLP
ACCOUNT: ILLINOIS TOOL WORKS INC.
7 TIMES SQUARE
NEW YORK NY 10036-7311**



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Paper No. 32

ROGITZ & ASSOCIATES
750 B STREET
SUITE 3120
SAN DIEGO CA 92101

MAILED
SEP 20 2010
OFFICE OF PETITIONS

In re Patent No. 6338727
Issue Date: 01/15/2002
Application Number: 09/133813
Filing or 371(c) Date: 08/13/1998
Attorney Docket Number: 999/002

ON PETITION

This is a decision in reference to the paper filed on June 2, 2010, which is treated as a renewed request under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a certificate of correction.

The petition is again **DISMISSED**.

Petitioner requests issuance of a certificate of correction adding The Regents of the University of California as an assignee.

37 CFR 3.81(b), effective June 25, 2004, reads:

After payment of the issue fee: Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 **before issuance of the patent**, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter [emphasis added]. *See also* MPEP 1481.01.

U.S. Patent and Trademark Office assignment records disclose that an assignment from inventor Gobin to The Regents of The University of California was recorded on May 30, 2003, **after the date of issuance of this patent**. Accordingly, since the assignment was not submitted for recordation until after issuance of this patent, issuance of a certificate of correction would not be proper.

Telephone inquiries concerning this decision on petition should be directed to the undersigned at (571) 272-3231.



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions



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**IMPERIUM PATENT WORKS
P.O. BOX 607
Pleasanton CA 94566**

MAILED

JAN 31 2011

OFFICE OF PETITIONS

In re Patent No. 7,221,285
Issue Date: May 22, 2007
Application No. 09/135,154
Filed: August 17, 1998
Attorney Docket No. ZIL-254

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed November 13, 2010. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby accepted. The petition is **GRANTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

This file is being forwarded to Files Repository.

Telephone inquiries related to this decision should be directed to the Kimberly Inabinet at (571) 272-4618.

/Kimberly Inabinet/
Kimberly Inabinet
Petitions Examiner
Office of Petitions



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Paper No. 11

Shahram Shawn Omram
11 Idaho St.
Passaic NJ 07055

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AUG 09 2010

OFFICE OF PETITIONS

In re Patent No. 5,927,278 :
Issued: July 27, 1999 : ON PETITION
Application No.: 09/135,789 :
Filing Date: August 18, 1998 :
Attorney Docket No. :

This is in response to the response to the "Request for Information" filed February 23, 2010, and the prior filed petition under 37 CFR 1.378(b) filed October 8, 2009.

The petition is **dismissed**.

The patent issued July 27, 1999. The 7.5 year maintenance fee could have been paid from July 27, 2006, through January 27, 2007, or with a surcharge, as authorized by 37 CFR 1.20(h), during the period from January 28, 2007, to July 27, 2007. Petitioner did not do so. Accordingly, the patent expired at midnight on July 27, 2007.

A grantable petition under 37 CFR 1.378(b) must be accompanied by a showing to the satisfaction of the Commissioner that the entire delay in paying the required maintenance fee from the due date for the fee until the filing of a grantable petition pursuant to this paragraph was unavoidable. The showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable within the meaning of 37 CFR 1.378(b).

Opinion

Petitioner must establish that petitioner treated the patent the same as a reasonable and prudent person would treat his or her most important business.

The general standard applied by the Office requires petitioner to establish that petitioner treated the patent the same as a reasonable and prudent person would treat his or her most important business.¹

¹The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard. 35 U.S.C. 41(c)(1) states, "The Commissioner may accept the payment of any maintenance fee . . . at any time . . . if the delay is shown to the satisfaction of the Commissioner to have been unavoidable." (emphasis added).

"In the specialized field of patent law, . . . the Commissioner of Patent and Trademarks is primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. His interpretation of those provisions is entitled to considerable deference." Rydeen v. Quigg, 748 F. Supp. 900, 904, 16 U.S.P.Q.2d (BNA) 1876 (D.D.C. 1990), aff'd without opinion Rule 36), 937 F.2d 623 (Fed Cir. 1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d agencies' interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) ("if the statute is silent or

However, “[t]he question of whether an applicant’s delay in prosecuting an application was unavoidable [will] be decided on a case-by-case basis, taking all of the facts and circumstances into account.”² Nonawareness of the content of, or misunderstanding of PTO statutes, PTO rules, the MPEP, or the Official Gazette notices does not constitute unavoidable delay.³ The statute requires a “showing” by petitioner, therefore; petitioner has the burden of proof. The decision will be based solely on the written, administrative record in existence. It is not enough that the delay was unavoidable; petitioner must prove that the delay was unavoidable. A petition will not be granted if petitioner provides insufficient evidence to “show” that the delay was unavoidable.

Petitioner is responsible for possessing knowledge of the need to pay maintenance fees and the due dates for such fees, Petitioner is responsible for instituting a reliable docketing system to remind him or her when maintenance fees become due.

Petitioner is responsible for having knowledge of the need to pay maintenance fees and knowing when the fees are due.⁴ The Office has no duty to notify a patentee of the requirement to pay maintenance fees or to notify patentee when a maintenance fee is due.⁵ Even if the Office were

ambiguous with respect to the specific issue, the question for the court is whether the agency’s answer is based on a permissible construction of the statute.”))

“The critical phrase ‘unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable’ has remained unchanged since first enacted in 1861.” Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982). The standard for “unavoidable” delay for reinstating a patent is the same as the unavoidable standard for reviving an application. See Ray v. Lehman, 55 F. 3d 606, 608-609, 34 U.S.P.Q.2d (BNA) 1786, 1781 (Fed Cir. 1995) (Citing In re patent No. 4,409,763, 7 U.S.P.Q.2d (BNA) 1798, 1800 (Comm’r Pat. 1990; Smith v. Mossinghoff, 671 F. 2d 533, 538, 213 U.S.P. Q. (BNA) 977 (D.C. Cir. 1982). The court in In re Mattullath, accepted the standard which had been proposed by Commissioner Hall which “requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business.” In re Mattullath, 38 App. D.C. 497, 514-515 (1912) (quoting Ex parte Pratt, 1887 Dec. Comm’r Pat 31, 32-33 (1887)).

²Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (1982).

³See Smith v. Mossinghoff, 671 F. 2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel’s nonawareness of PTO rules does not constitute “unavoidable” delay); Vincent v. Mossinghoff, 1985 U.S. Dist. LEXIS 23119, 13, 230 U.S.P.Q. (BNA) 621 (D.D.C. 1985) (plaintiffs, through their counsel’s action, or their own, must be held responsible for having noted the MPEP section and Official Gazette notices expressly stating that the certified mailing procedures outlined in 37 CFR 1.8(a) do not apply to continuation applications.) (Emphasis added).

⁴Nonawareness of PTO statutes, PTO rules, the MPEP, or Official Gazette notices, which state maintenance fee amounts and dates they are due does not constitute unavoidable delay. See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. *BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel’s nonawareness of PTO rules does not constitute “unavoidable” delay); Vincent v. Mossinghoff, 1985 U.S. Dist. LEXIS 23119, 13, 230 U.S.P.Q. (BNA) 621 (D.D.C. 1985) (Plaintiffs, through their counsel’s actions, or their own must be held responsible for having noted the MPEP section and Official Gazette notices expressly stating that the certified mailing procedures outlined in 37 CFR 1.8(a) do not apply to continuation applications.) (Emphasis added).

Petitioner must act as a reasonable and prudent person in relation to his most important business. Upon obtaining the patent, a reasonable and prudent person, in relation to his most important business, would become familiar with the legal requirements of that business, in this case, the requirement to pay maintenance fees. In addition, a reasonable and prudent individual would read the patent itself and thereby become aware of the need to pay maintenance fees and the fact that such fee amounts are sometimes changed by law or regulation.

⁵Congress expressly conditioned §§ 133 and 151 [of the United States Code] on a specific type of notice, while no such notice requirements are written into § 41(c) . . . [T]he Commissioner’s no timely-notice interpretation.” Ray v. Comer, 1994 U.S. Dist. LEXIS 21478, 8-9 (1994), *aff’d on other grounds* Ray v. Lehman, 55 F.3d 606, 34 USPQ2d 1786 (Fed. Cir. 1995) (Citing

required to provide notice to applicant of the existence of maintenance fee requirements, such notice is provided by the patent itself.⁶

A reasonable and prudent person, aware of the existence of maintenance fees, would not rely on maintenance fee reminders or on memory to remind him or her when payments would fall due several years in the future. Instead, such an individual would implement a reliable and trustworthy tracking system to keep track of the relevant dates.⁷ The individual would also take steps to ensure that the patent information was correctly entered into the tracking system.

Application of the unavoidable standard to the present facts

In the instant petition, petitioner argues that the above-cited patent should be reinstated because the delay in paying the 7.5 year maintenance fee was the result of the failure of the patentee's patent attorney, Terrance L. Siemens, to pay the maintenance fee despite the patentee having provided Mr. Siemens with the monies to pay the 7.5-year maintenance fee. Petitioner further maintains that petitioner was unaware of Mr. Siemens death which contributed to the entire delay in paying the 7.5-year maintenance fee and filing a grantable petition. Further to this point, Section 2590 of the *Manual of Patent Examining Procedure* (MPEP) provides that, among other requirements, a petition to accept late payment of a maintenance fee, where the delay was unavoidable, must include:

(C) a showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent.

Rydeen v. Quigg, 748 F. Supp. 900, 905 (1990), Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc., 467 U.S. 837, 81 L. ed. 2d 694, 104 S. Ct. 2778 (1984)). "The Court concludes as it did in Rydeen, that as a constitutional matter, 'plaintiff was not entitled to any notice beyond publication of the statute.'" Id. at 3 (citing Rydeen v. Quigg, 748 F. Supp. at 906, Texaco v. Short, 454 U.S. 516, 536, 70 L. Ed. 2d 738, 102 S. Ct. 781 (1982)).

The Patent Office, as a courtesy tries to send maintenance fee reminders and notices of patent expiration to the address of record. However, the failure to receive the reminder notice, and the lack of knowledge of the requirement to pay the maintenance fee, will not shift the burden of monitoring the time for paying a maintenance fee from the patentee to the Office. See MPEP 2575, 2540, 2590. Petitioner does not have a right to a personalized notice that this patent will expire if a certain maintenance fee is not paid, as the publication of the statute was sufficient notice. See Rydeen v. Quigg, 748 F. Supp. 900, 907 (1990). the ultimate responsibility for keeping track of maintenance fee states lies with the patentee, not the USPTO. Since the mailing of Notices by the Office is completely discretionary and not a requirement imposed by Congress, accepting an argument that failure to receive a Notice is unavoidable delay would result in all delays being unavoidable should the Office discontinue the policy. All petitions could allege non-receipt of the reminder, and therefore all petitions could be granted. This was clearly not the intent of Congress in the creation of the unavoidable standard.

⁶See Ray v. Lehman, 55 F.3d 606, 610; 34 USPQ2d 1786, 1789 (Fed. Cir. 1995). The Letters of Patent contain a Maintenance Fee Notice that warns that the patent may be subject to maintenance fees if the application was filed on or after December 12, 1980. While it is unclear as to who was and is in actual possession of the patent, petitioner's failure to read the Notice does not vitiate the Notice, nor does the delay resulting from such failure to read the Notice establish unavoidable delay.

⁷ 37 CFR 1.378(b)(3) precludes acceptance of a late maintenance fee for a patent unless a petitioner can demonstrate that steps were in place to monitor the maintenance fee. The federal Circuit has specifically upheld the validity of this regulation. Ray v. Lehman, 55 F.3d 606, 609; 34 USPQ2d (BNA) 1786 (Fed.Cir. 1995). In Ray v. Lehman, petitioner claimed that he had not known of the existence of the maintenance fees and therefore had no steps in place to pay such fees. The petitioner therefore argues that the PTO's regulation, 37 CFR 1.37(b)(3), supra, arguing that it 'creates a burden that goes well beyond what is reasonably prudent.' We disagree, The PTO's regulation merely sets forth how one is to prove that he was reasonably prudent, i.e., by showing what steps he took to ensure that the maintenance fee would be timely paid, and the steps taken in seeking to reinstate the patent. We do not see these requirements additional to proving unavoidable delay, but as the very elements of unavoidable delay." Id.

The required showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly. Furthermore, an adequate showing requires a statement by all persons with direct knowledge of the cause of delay, setting forth the facts as they know them. Copies of all documentary evidence referred to in a statement should be furnished as exhibits to the statement.

As the crux of petitioner's arguments rest on the failure of Mr. Siemens and firm to pay the 7.5-year maintenance fee, it necessary for petitioner to establish that the delay of Mr. Siemens and, if applicable, his firm was unavoidable. Accordingly, petitioner must provide a statement from a person from this firm with first hand knowledge of the failures that contributed to the non-payment of the 7.5-year maintenance fee. At a minimum, petitioner must provide a statement from Mr. Mark Levy who petitioner indicates contributed to the delay in paying the 7.5-year maintenance fee.

A successful petition under 37 CFR 1.378(b) must affirmatively identify the cause of the delay in paying the maintenance fee and provide a statement from every person with first-hand knowledge of the circumstances surrounding the delay in paying the maintenance fee. Petitioner must provide statements from any person who may have been charged with paying the maintenance fee and statements from any person with first-hand knowledge of the circumstances surrounding the failure to pay the maintenance fees. This would include a statement from the patent owner regarding the payment of the maintenance fee funds to Mr. Siemens and his firm and any details of any follow-up conversations that the patent owner may have had regarding payment of the maintenance fee.

Petitioner should provide an explanation of the arrangement between the patent owner and Mr. Siemens and his firm. The explanation should detail who was responsible for tracking the payment of the maintenance fees and remitting the maintenance fee to the USPTO. If available, petitioner should provide documentary evidence of this arrangement, namely a copy of the retainer agreement between the patent owner and Mr. Siemens. Petitioner should also provide documentary evidence that the funds for the maintenance fee were timely remitted to Mr. Siemens for payment to the USPTO.

In general, absent evidence that the attorney/agent acted to deceive the client, the patent owner is bound by the actions or inactions of its duly authorized and voluntarily chosen representatives. Specifically, the patent owners delay caused by the mistake or negligence of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 USC 133. Thus, petitioner must establish, through statements and documentary evidence, that petitioner's duly authorized representative acted willfully to deceive the patent owner such that the 7.5 year maintenance fee would not be timely paid.

Petitioner's argument relative to petitioner's mother's health is noted, but does not appear to be relevant to the delay in paying the 7.5 year maintenance fee because it appears that petitioner delegated the responsibility of paying the 7.5 year maintenance fee to a registered patent agent. Thus, the focus of this petition is largely on the actions or inactions of Mr. Siemens and his firm.

Regarding patentee's assertion that the delay in paying the 7.5-year maintenance fee was exacerbated by patentee's failure to receive a maintenance fee reminder, section 2590 of the *Manual of Patent Examining Procedure* (MPEP) specifically states, in pertinent part, that:

... the patentee's lack of knowledge of the need to pay the maintenance fee and the failure to receive the Maintenance Fee Reminder do not constitute unavoidable delay. Under the statutes and rules, the Office has no duty to notify patentees of the requirement to pay maintenance fees or to notify patentees when the maintenance fees are due. It is solely the responsibility of the patentee to ensure that the maintenance fee is timely paid to prevent expiration of the patent. The lack of knowledge of the requirement to pay a maintenance fee and the failure to receive the Maintenance Fee Reminder will not shift the burden of monitoring the time for paying a

Maintenance fee from the patentee to the Office.

While the patentee's failure to receive a maintenance fee reminder is regrettable, the failure to pay a maintenance fee based on the lack of knowledge of the need to pay it does not satisfy the unavoidable standard of 37 CFR 1.378(b).

Petitioner's Current Options

I. Petitioner may file a request for reconsideration.

If reconsideration of this decision is desired, a petition for reconsideration must be filed within TWO (2) MONTHS from the mail date of this decision.⁸ The petition for reconsideration should be titled "Petition for Reconsideration under 37 CFR 1.378(b)." Any petition for reconsideration for this decision must be accompanied by a non-refundable petition fee of \$400.00 as set forth in 37 CFR 1.17(h).

After a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner. It is, therefore, extremely important that petitioner supply any and all relevant information and documentation with the request for reconsideration. The Commissioner's decision will be based solely on the administrative record in existence. Petitioner should remember that is not enough that the delay was unavoidable; petitioner must prove that the delay was unavoidable. A petition will not be granted if petitioner provides insufficient evidence "to show" that the delay was unavoidable. If a request for reconsideration is filed, it must establish that the entire delay in the submission of the maintenance fee was unavoidable.

II. Petitioner may request a refund of the maintenance fee and surcharge which accompanied the petition.

Petitioner may request a refund of the maintenance fee and surcharge by writing to the Office of Finance, Refund Section. A copy of this decision should accompany petitioner's request.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patent
Mail Stop Petitions
Box 1450
Alexandria, VA 22313-1460

By facsimile: (571) 273-8300
Attn: Office of Petitions

A reasonable and prudent person would not rely on maintenance fee reminders from the Office for two reasons. First, the Office has indicated that such reminders are a mere courtesy and has reserved the right to discontinue such reminders at any time. second, such reminders may be lost in the mail. A reasonable and prudent person, in regard to his most important business would not rely solely on reminders that the Office may or may not send which may or may not be lost in the mail.

⁸No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). This is not a final agency action within the meaning of 5 U.S.C. § 704.

In re Patent No. 5,927,278

6

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

A handwritten signature in cursive script, appearing to read "Kenya A. McLaughlin", written in black ink.

Kenya A. McLaughlin
Petition Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Mark Levy
HINMAN, HOWARD & KATTELL, LLP
80 Exchange Street
P.O. Box 5250
Binghamton, NY 13901

MAILED
JUN 20 2011
OFFICE OF PETITIONS

In re Patent No. 5,927,278 :
Issued: July 27, 1999 : REQUEST FOR INFORMATION
Application No.: 09/135,789 :
Filing Date: August 18, 1998 :
Attorney Docket No. :

This is a request for information in response to the petition under 37 CFR 1.378(b), filed October 12, 2010, to reinstate the above-cited patent.

Petitioner is allowed a non-extendable period for reply of **TWO (2) MONTHS** from the mailing date of this communication to provide a response. The response should be titled, "Response to Request for Information." If no response is provided within the period set forth, a decision will be made solely on the merits as set forth in the petition under 37 CFR 1.378(b) filed September 28, 2009. No additional fees are due.

The patent issued July 27, 1999. The 7.5 year maintenance fee could have been paid from July 27, 2006, through January 27, 2007, or with a surcharge, as authorized by 37 CFR 1.20(h), during the period from January 28, 2007, to July 27, 2007. Petitioner did not do so. Accordingly, the patent expired at midnight on July 27, 2007.

By the instant petition, petitioner asserts that:

- patentee's former counsel, the late Terrance Siemens forwarded patentee correspondence on October 14, 2006, indicating that Mr. Siemens law firm was closing. The letter advised patentee that all of maintenance fee information for the patent was being sent to Mark Levy of Mark Levy and Associates so that Mr. Levy could assist with the tracking and payment of the maintenance fees, if patentee wished.
- The letter of October 14, 2006, also advised that a Change of Correspondence Address form was enclosed which patentee should complete and sign and return to Mr. Levy so that it could be forwarded to the USPTO.
- Mr. Levy never received an authorization to represent patentee in the matter. Neither did Mr. Levy receive a copy of the October 14, 2006 letter.

It is noted that the period for paying the 7.5-year maintenance fee began July 27, 2006, and ended July 26, 2007. Within that period—specifically October 2006—patentee was sent correspondence from Mr. Siemens law firm indicating that the Office was closing. Implicit in this letter is the fact that Mr. Siemens

law firm would no longer be responsible for tracking and paying the maintenance fee for the subject patent. Further, the letter gives clear instruction that if the patentee desires the professional services of other counsel to track and pay the maintenance fee, patentee should complete the enclosed forms and contact Mr. Mark Levy. By the instant petition, Mr. Levy states that the patentee did not contact Mr. Levy until August 31, 2010. The instant petition demonstrates that, in fact, the focus of the 1.378(b) petition, and whose delay was unavoidable, is largely that of the patentee because Siemens law firm severed its representation of the patentee in October of 2006, and no other counsel was sought until August 2010.

Based on the aforementioned, petitioner is required to address the following points:

- Did patentee receive the letter dated October 14, 2006, from Siemens law firm?
- If so, what action, if any, did patentee take in response to the letter?
- Petitioner must also address how patentee treated the maintenance of the patent as patentee's most important business. Petitioner must demonstrate that the patentee acted reasonably and diligently relative to the maintenance of the patent. Specifically, petitioner may wish to address how patentee tracked the maintenance fee payment schedule for the patent, if at all.
- Petitioner is required to explain whether Mr. Levy, or any associated law firm, received funds from patentee in order to pay the 7.5-year maintenance fee. If so, petitioner should explain what happen to those monies.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patent
Mail Stop Petitions
Box 1450
Alexandria, VA 22313-1460

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petition Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6379419 :
Issue Date: April 30, 2002 :
Application No. 09136043 :DECISION GRANTING PETITION
Filed: August 18, 1998 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 1672.38 :

This is a decision on the electronic petition, filed August 1, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 1, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,379,419	2002-04-30	09/136,043	1998-08-18	213934-00001

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|---|-----|--------|
| <input type="radio"/> 3 ½ year | | (1551) |
| <input checked="" type="radio"/> 7 ½ year | | (1552) |
| <input type="radio"/> 11 ½ year | | (1553) |

Small Entity

- | | Fee | Code |
|---------------------------------|-----|--------|
| <input type="radio"/> 3 ½ year | | (2551) |
| <input type="radio"/> 7 ½ year | | (2552) |
| <input type="radio"/> 11 ½ year | | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Richard P. Bauer/	Date (YYYY-MM-DD)	2011-08-01
Name	Richard P. Bauer	Registration Number	31588
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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In re Patent No. 6312594 :
Issue Date: November 6, 2001 :
Application No. 09136364 :DECISION GRANTING PETITION
Filed: August 19, 1998 :UNDER 37 CFR 1.378(c)
Attorney Docket No. BERE.0006 :

This is a decision on the electronic petition, filed September 7, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 7, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6312594	2001-11-06	09136364	1998-08-19	10452-77

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input checked="" type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Philip C. Mendes da Costa/	Date (YYYY-MM-DD)	2010-09-07
Name	Philip C. Mendes da Costa	Registration Number	33106
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

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The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6008049	1999-12-28	09136503	1998-08-19	31798-706.201

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|---------------------------------|-----|--------|
| <input type="radio"/> 3 ½ year | | (1551) |
| <input type="radio"/> 7 ½ year | | (1552) |
| <input type="radio"/> 11 ½ year | | (1553) |

Small Entity

- | | Fee | Code |
|--|-----|--------|
| <input type="radio"/> 3 ½ year | | (2551) |
| <input type="radio"/> 7 ½ year | | (2552) |
| <input checked="" type="radio"/> 11 ½ year | | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Kristin Havranek/	Date (YYYY-MM-DD)	2012-01-31
Name	Kristin Havranek	Registration Number	58789
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

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4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
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In re Patent No. 6008049 :
Issue Date: December 28, 1999 :
Application No. 09136503 :DECISION GRANTING PETITION
Filed: August 19, 1998 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 31798-706.201 :

This is a decision on the electronic petition, filed January 31, 2012, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 31, 2012. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



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P.O. Box 1450
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In re Patent No. 6000697 :
Issue Date: December 14, 1999 :
Application No. 09136600 :DECISION GRANTING PETITION
Filed: August 19, 1998 :UNDER 37 CFR 1.378(c)
Attorney Docket No. WMSW:012 :

This is a decision on the electronic petition, filed April 2, 2012, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 2, 2012. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6000697	1999-12-14	09136600	1998-08-19	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input checked="" type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☐ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☒ The assignee of record of the entire interest

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The Assignee of record of the entire interest			
Under 37 CFR 3.71 an assignee becomes of record by filing a statement in compliance with 37 CFR 3.73(b). Signature requirements are set forth in 37 CFR 1.4(d), and the undersigned certifies that he / she is empowered to act on behalf of the assignee of the entire interest			
Signature	/Rick Bartlett/		Date (YYYY-MM-DD) 2012-04-02
Name	Rick Bartlett		
Enter Reel and Frame Number		Remove	
Reel Number	025095	Frame Number	0859
Enter Reel and Frame Number		Remove	
Reel Number	022542	Frame Number	0140
Enter Reel and Frame Number		Remove	
Reel Number	009407	Frame Number	0374
Click ADD for additional Reel Number and Frame Number		Add	
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

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5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
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Bo-In Lin
13445 Mandoli Drive
Los Altos Hills CA 94022

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AUG 22 2011

OFFICE OF PETITIONS

In re Patent No. 7,049,668 :
Issue Date: May 23, 2006 :
Application No. 09/139,935 :
Filed: August 25, 1998 :
Attorney Docket No. **2154-11** :

ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed August 4, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent.

This patent expired at midnight May 23, 2010, for failure to pay the 3½ year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The petition is hereby **GRANTED**.

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions



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In re Patent No. 6081221 :
Issue Date: June 27, 2000 :
Application No. 09140739 :DECISION GRANTING PETITION
Filed: August 27, 1998 :UNDER 37 CFR 1.378(c)
Attorney Docket No. DOC-9801 :

This is a decision on the electronic petition, filed March 9, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 9, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



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DAVIS WRIGHT TREMAINE LLP - SANDISK CORPORATION
505 MONTGOMERY STREET
SUITE 800
SAN FRANCISCO CA 94111

MAILED

SEP 14 2011

OFFICE OF PETITIONS

In re Application of	:	
Harari et al.	:	
Application No. 09/143,233	:	
Filed: August 28, 1998	:	DECISION
Attorney Docket No. SNDK.006UST	:	
For: FLASH EEPROM SYSTEM WITH	:	
OVERHEAD DATA STORED IN USER	:	
DATA SECTORS	:	

The above-identified application has been forwarded to the undersigned for consideration of a petition for patent term extension entitled "Petition Under 37 CFR 1.181 To Request Review of Patent Term Extension Under Former 35 U.S.C. 154(b)" received on January 20, 2011.

The petition is **dismissed**.

Background

Petitioner asserts that the application was filed on August 28, 1998 and the patent to be issued from the above identified application is entitled to a patent term extension as the application was under appellate review for several years. Petitioner asserts that the Notice of Allowance and Issue Fee(s) Due Notice, included a determination that the patent term extension was 0 days, is in error, as the application is entitled patent term extension.

Petitioner asserts that the application was under appellate review since at least November 2, 2006, when Applicant filed a Notice of Appeal. Petitioner asserts that the application was under appeal until the Examiner issued a new Office Action on entirely new grounds on June 23, 2010.

On August 28, 1998, the above identified application was received by the Office.

On November 2, 2006, a Notice of Appeal was received by the Office.

On March 30, 2007, an Appeal Brief was received by the Office.

On April 14, 2009, a Notification of Non-Compliant Appeal Brief was mailed by the Office.

On August 12, 2009, an Appeal Brief was received by the Office.

On June 23, 2010, a Non-Final Office Action was mailed by the Office.

On October 15, 2010, an amendment was received by the Office.

On November 22, 2010, a Notice of Allowance and Issue Fee(s) Due notice, which included a determination that the patent term extension was zero (0) days, was mailed by the Office.

Applicable Statutes and Regulation

35 U.S.C. 154. Contents and term of patent (in effect on June 8, 1995)

(b) TERM EXTENSION.-

(1) INTERFERENCE DELAY OR SECRECY ORDERS.-If the issue of an original patent is delayed due to a proceeding under section 135(a) of this title, or because the application for patent is placed under an order pursuant to section 181 of this title, the term of the patent shall be extended for the period of delay, but in no case more than 5 years.

(2) EXTENSION FOR APPELLATE REVIEW.-If the issue of a patent is delayed due to appellate review by the Board of Patent Appeals and Interferences or by a Federal court and the patent is issued pursuant to a decision in the review reversing an adverse determination of patentability, the term of the patent shall be extended for a period of time but in no case more than 5 years. A patent shall not be eligible for extension under this paragraph if it is subject to a terminal disclaimer due to the issue of another patent claiming subject matter that is not patentably distinct from that under appellate review.

37 CFR 1.701 Extension of patent term due to examination delay under the Uruguay Round Agreements Act (original applications, other than designs, filed on or after June 8, 1995, and before May 29, 2000).

(a) A patent, other than for designs, issued on an application filed on or after June 8, 1995, is entitled to extension of the patent term if the issuance of the patent was delayed due to:

- (1) Interference proceedings under 35 U.S.C. 135(a); and/or
- (2) The application being placed under a secrecy order under 35 U.S.C. 181; and/or
- (3) Appellate review by the Board of Patent Appeals and Interferences or by a Federal court under 35 U.S.C. 141 or 145, if the patent was issued pursuant to a decision in the review reversing an adverse determination of patentability and if the patent is not subject to a terminal disclaimer due to the issuance of another patent claiming subject matter that is not patentably

distinct from that under appellate review. If an application is remanded by a panel of the Board of Patent Appeals and Interferences and the remand is the last action by a panel of the Board of Patent Appeals and Interferences prior to the mailing of a notice of allowance under 35 U.S.C. 151 in the application, the remand shall be considered a decision in the review reversing an adverse determination of patentability as that phrase is used in 35 U.S.C. 154(b)(2) as amended by section 532(a) of the Uruguay Round Agreements Act, Public Law 103-465, 108 Stat. 4809, 4983-85 (1994), and a final decision in favor of the applicant under paragraph (c)(3) of this section. A remand by a panel of the Board of Patent Appeals and Interferences shall not be considered a decision in the review reversing an adverse determination of patentability as provided in this paragraph if there is filed a request for continued examination under 35 U.S.C. 132(b) that was not first preceded by the mailing, after such remand, of at least one of an action under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151.

(b) The term of a patent entitled to extension under paragraph (a) of this section shall be extended for the sum of the periods of delay calculated under paragraphs (c)(1), (c)(2), (c)(3) and (d) of this section, to the extent that these periods are not overlapping, up to a maximum of five years. The extension will run from the expiration date of the patent.

(c)(1) The period of delay under paragraph (a)(1) of this section for an application is the sum of the following periods, to the extent that the periods are not overlapping:

(i) With respect to each interference in which the application was involved, the number of days, if any, in the period beginning on the date the interference was declared or redeclared to involve the application in the interference and ending on the date that the interference was terminated with respect to the application; and

(ii) The number of days, if any, in the period beginning on the date prosecution in the application was suspended by the Patent and Trademark Office due to interference proceedings under 35 U.S.C. 135(a) not involving the application and ending on the date of the termination of the suspension.

(2) The period of delay under paragraph (a)(2) of this section for an application is the sum of the following periods, to the extent that the periods are not overlapping:

(i) The number of days, if any, the application was maintained in a sealed condition under 35 U.S.C. 181;

(ii) The number of days, if any, in the period beginning on the date of mailing of an examiner's answer under § 41.39 of this title in the application under secrecy order and ending on the date the secrecy order and any renewal thereof was removed;

(iii) The number of days, if any, in the period beginning on the date applicant was notified that an interference would be declared but for the secrecy order and ending on the date the secrecy order and any renewal thereof was removed; and

(iv) The number of days, if any, in the period beginning on the date of notification under § 5.3(c) and ending on the date of mailing of the notice of allowance under § 1.311.

(3) The period of delay under paragraph (a)(3) of this section is the sum of the number of days, if any, in the period beginning on the date on which an appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and ending on the date of a final decision in favor of the applicant by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145.

(d) The period of delay set forth in paragraph (c)(3) shall be reduced by:

(1) Any time during the period of appellate review that occurred before three years from the filing of the first national application for patent presented for examination; and

(2) Any time during the period of appellate review, as determined by the Director, during which the applicant for patent did not act with due diligence. In determining the due diligence of an applicant, the Director may examine the facts and circumstances of the applicant's actions during the period of appellate review to determine whether the applicant exhibited that degree of timeliness as may reasonably be expected from, and which is ordinarily exercised by, a person during a period of appellate review.

(e) The provisions of this section apply only to original patents, except for design patents, issued on applications filed on or after June 8, 1995, and before May 29, 2000.

Opinion

35 U.S.C. § 154(b)(as amended by the "Uruguay Round Agreements Act," enacted December 8, 1994, as part of Public Law 103-465) provides for patent term extension for appellate review, interference and secrecy order delays in applications filed on or after June 8, 1995 and before May 29, 2000. 35 U.S.C. § 154(b)(as amended by the "American Inventors Protection Act of 1999," enacted November 29, 1999, as part of Public Law 106-113) provides for patent term adjustment for administrative delays in applications filed on or after May 29, 2000.

The above-identified application was filed on August 28, 1998. Accordingly, the application is entitled to patent term extension based upon the conditions in 35 U.S.C. § 154(b) in effect on June 8, 1995. The current provisions of 35 U.S.C. § 154(b) became effective on May 29, 2000 and do not apply because the current version of 35 U.S.C. § 154(b) only applies to applications filed on or after May 29, 2000. Pursuant to 35 U.S.C. § 154(b) in effect on June 8, 1995, an applicant can receive patent term extension only if there was an appellate review, interference or a secrecy order delay as set forth in the statute. The statute limits the Office's authority to grant patent term extension to only those situations stated in the statute.

In order to implement 35 U.S.C. 154(b) (in effect between June 8, 1995 and May 28, 2000), the Office promulgated 37 CFR 1.701(c)(3), which, consistent with the statute, requires a final decision in favor of the applicant by the Board of Patent Appeals and Interferences or by a Federal Court in an appeal under 35 U.S.C. 145 to be eligible for patent term extension. The application was not issued due to an adverse determination of patentability by the BPAI, was not delayed due to an interference proceeding, nor was it subject to a secrecy order, as a result, this application is not eligible for the extension under 35 U.S.C. 154 in effect on June 8, 1995 and 37 CFR 1.701. The Office has no authority to grant an extension of the term due to administrative delays except as authorized by 35 U.S.C. § 154.

Petitioner argues that an Office Action on entirely new grounds should be considered "a decision in the review reversing an adverse determination of patentability" for patent term extension purposed and that the term of the patent should be extended. For patent term extension, both 35 U.S.C. 154(b)(2) in effect on June 8, 1995 and 37 CFR 1.701(a)(3) where the delay is not related

to a secrecy order or an interference, require a decision by the BPAI reversing an adverse determination of patentability for the patent application to be eligible for patent term extension under 35 U.S.C. § 154. Since, the application was not issued due to an adverse determination of patentability by the BPAI, the application is not entitled to patent term extension under 35 U.S.C. 154 and 37 CFR 1.701.

The Office regrets the delays in issuing Applicants patent. The Office has no authority to grant an extension of the term due to administrative delays except as authorized by 35 U.S.C. § 154.

Telephone inquiries with regard to this communication should be directed to Mark O. Polutta at (571) 272-7709.

A handwritten signature in black ink, appearing to read 'M. O. Polutta', with a stylized flourish at the end.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy



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2151 PALERMO
TUSTIN CA 92782

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OFFICE OF PETITIONS

In re Application of
Tu et al.
Patent Number: 5980563
Issue Date: 11/09/1999
Application No. 09/143890
Filing or 371(c) Date: 08/31/1998
Title of Invention:
ABLATION APPARATUS AND
METHODS FOR TREATING A
THEROSCLEROSI

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ON PETITION

This is a notice regarding request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

A review of the petition reveals that the address appearing on the petition differs from the correspondence address of record. Applicant is advised that, in patented files: requests for changes of correspondence address; powers of attorney, revocations of powers of attorney, withdrawal of attorney and submissions under 37 CFR 1.501: Designation of, or changes to, a fee address, should be addressed to Mail Stop M Correspondence.

Patent No. 5980563

Page 2

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

CC: ST. JUDE MEDICAL, ATRIAL FIBRILLATION DIVISION
Legal Department
One St. Jude Medical Drive
St. Paul MN 55117-9913



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2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

MAILED

AUG 04 2010

OFFICE OF PETITIONS

In re Application of
Dryja et al.
Application No. 09/144,897
Filed: September 1, 1998
US Patent No. 7,376,453 B1
Issued: May 20, 2008
Attorney Docket No. MASIMO.7CP1C4
For: Signal Processing Apparatus

DECISION

The above-identified application has been forwarded to the undersigned for consideration of two petitions for patent term extension entitled "Request for Reconsideration for Decision on Petition for Patent Term Extension – Termination Delay" received on July 13, 2009 and "Request for Reconsideration for Decision on Petition for Patent Term Extension – Suspension Delay", received on July 13, 2009. Both Petitions are **Denied**.

Background

Petitioner filed a petition as a "Supplemental Petition under 37 CFR 1.181 for Correction of Patent Term Extension," received on June 30, 2008 for an extension of the patent term. The petition was treated as a petition under 37 CFR 1.181 and 37 CFR 1.701, and as a petition under 37 CFR 1.182, since 37 CFR 1.701 does not provide for patent term extension for delays that occur due to a suspension for a potential interference. On June 18, 2009, the petition was granted in part and the patent term extension was 191 days.

In the Petition for "Termination Delay," Petitioner asserts that the Office erred in not granting an additional 332 days for the time it took the Board of Patent Appeals and Interferences (BPAI) to forward the case to the Examiner. Petitioner asserts the definition of the term "termination" from 37 CFR 41.205(a), should not be read broadly to apply in the 37 CFR 1.701 regulation. Petitioner asserts that 37 CFR 1.701 should be read to allow for patent term extension if a patent is "delayed due to" interference proceedings and that the length of the delay due to failure to promptly forward the application is within the control of the Office and not the Petitioner. Petitioner argues

that fairness dictated that such unilateral action by the Office should result in additional term of 332 days for Petitioner.

In the Petition for "Suspension Delay," Petitioner asserts that the Office erred in not granting an additional 247 days because the Examiner initiated two suspensions. Petitioner asserts that it is improper for the Office to distinguish between the two types of suspensions. Petitioner asserts that the Office should read 1.701 to include delay from actual and potential proceedings in view of the statute. Petitioner asserts the § 135(a) establishes the interference process whether it be an actual declared interference or suspension to await a declaration of interference. Petitioner asserts that the statute forms the basis for the Examiner initiated suspensions due to a potential interference and thus such a suspension should be deemed an "interference proceeding under § 135 and pursuant to § 1.701. Petitioner asserts that the length or duration of delay due to suspension is entirely within control of the Office and as such fairness dictates that such unilateral action by the Office should provide additional term extension for applicant.

Petitioner asserts that the patent is entitled to an additional 247 days of patent term extension due to the suspension delays and an additional 332 days of patent term extension due to delays in returning the application to the Examiner for a total of 523 additional days of patent term extension.

On September 1, 1998, the above identified application was received by the Office.

On July 2, 2003, a first Letter of Suspension was mailed by the Office.

On May 16, 2006, a second Letter of Suspension was mailed by the Office.

On July 18, 2006, a Declaration of Interference was mailed by the Office.

On November 24, 2006, a judgment was made, by a decision mailed by the Board of Patent Appeals and Interferences.

On January 10, 2008, a Notice of Allowance and Fee Due notice was mailed by the Office.

Applicable Statutes and Regulation

35 U.S.C. 135 Interferences.

(a) Whenever an application is made for a patent which, in the opinion of the Director, would interfere with any pending application, or with any unexpired patent, an interference may be declared and the Director shall give notice of such declaration to the applicants, or applicant and patentee, as the case may be. The Board of Patent Appeals and Interferences shall determine questions of priority of the inventions and may determine questions of patentability. Any final decision, if adverse to the claim of an applicant, shall constitute the final refusal by the Patent

and Trademark Office of the claims involved, and the Director may issue a patent to the applicant who is adjudged the prior inventor. A final judgment adverse to a patentee from which no appeal or other review has been or can be taken or had shall constitute cancellation of the claims involved in the patent, and notice of such cancellation shall be endorsed on copies of the patent distributed after such cancellation by the Patent and Trademark Office. . . .

35 U.S.C. 154. Contents and term of patent (in effect on June 8, 1995)

(b) TERM EXTENSION.-

(1) INTERFERENCE DELAY OR SECRECY ORDERS.-If the issue of an original patent is delayed due to a proceeding under section 135(a) of this title, or because the application for patent is placed under an order pursuant to section 181 of this title, the term of the patent shall be extended for the period of delay, but in no case more than 5 years.

(2) EXTENSION FOR APPELLATE REVIEW.-If the issue of a patent is delayed due to appellate review by the Board of Patent Appeals and Interferences or by a Federal court and the patent is issued pursuant to a decision in the review reversing an adverse determination of patentability, the term of the patent shall be extended for a period of time but in no case more than 5 years. A patent shall not be eligible for extension under this paragraph if it is subject to a terminal disclaimer due to the issue of another patent claiming subject matter that is not patentably distinct from that under appellate review.

37 CFR 1.701 Extension of patent term due to examination delay under the Uruguay Round Agreements Act (original applications, other than designs, filed on or after June 8, 1995, and before May 29, 2000).

(a) A patent, other than for designs, issued on an application filed on or after June 8, 1995, is entitled to extension of the patent term if the issuance of the patent was delayed due to:

- (1) Interference proceedings under 35 U.S.C. 135(a); and/or
- (2) The application being placed under a secrecy order under 35 U.S.C. 181; and/or
- (3) Appellate review by the Board of Patent Appeals and Interferences or by a Federal court under 35 U.S.C. 141 or 145, if the patent was issued pursuant to a decision in the review reversing an adverse determination of patentability and if the patent is not subject to a terminal disclaimer due to the issuance of another patent claiming subject matter that is not patentably distinct from that under appellate review. If an application is remanded by a panel of the Board of Patent Appeals and Interferences and the remand is the last action by a panel of the Board of Patent Appeals and Interferences prior to the mailing of a notice of allowance under 35 U.S.C. 151 in the application, the remand shall be considered a decision in the review reversing an adverse determination of patentability as that phrase is used in 35 U.S.C. 154(b)(2) as amended by section 532(a) of the Uruguay Round Agreements Act, Public Law 103-465, 108 Stat. 4809, 4983-85 (1994), and a final decision in favor of the applicant under paragraph (c)(3) of this section. A remand by a panel of the Board of Patent Appeals and Interferences shall not be considered a decision in the

review reversing an adverse determination of patentability as provided in this paragraph if there is filed a request for continued examination under 35 U.S.C. 132(b) that was not first preceded by the mailing, after such remand, of at least one of an action under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151.

(b) The term of a patent entitled to extension under paragraph (a) of this section shall be extended for the sum of the periods of delay calculated under paragraphs (c)(1), (c)(2), (c)(3) and (d) of this section, to the extent that these periods are not overlapping, up to a maximum of five years. The extension will run from the expiration date of the patent.

(c)(1) The period of delay under paragraph (a)(1) of this section for an application is the sum of the following periods, to the extent that the periods are not overlapping:

(i) With respect to each interference in which the application was involved, the number of days, if any, in the period beginning on the date the interference was declared or redeclared to involve the application in the interference and ending on the date that the interference was terminated with respect to the application; and

(ii) The number of days, if any, in the period beginning on the date prosecution in the application was suspended by the Patent and Trademark Office due to interference proceedings under 35 U.S.C. 135(a) not involving the application and ending on the date of the termination of the suspension.

(2) The period of delay under paragraph (a)(2) of this section for an application is the sum of the following periods, to the extent that the periods are not overlapping:

(i) The number of days, if any, the application was maintained in a sealed condition under 35 U.S.C. 181;

(ii) The number of days, if any, in the period beginning on the date of mailing of an examiner's answer under § 41.39 of this title in the application under secrecy order and ending on the date the secrecy order and any renewal thereof was removed;

(iii) The number of days, if any, in the period beginning on the date applicant was notified that an interference would be declared but for the secrecy order and ending on the date the secrecy order and any renewal thereof was removed; and

(iv) The number of days, if any, in the period beginning on the date of notification under § 5.3(c) and ending on the date of mailing of the notice of allowance under § 1.311.

(3) The period of delay under paragraph (a)(3) of this section is the sum of the number of days, if any, in the period beginning on the date on which an appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and ending on the date of a final decision in favor of the applicant by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145.

(d) The period of delay set forth in paragraph (c)(3) shall be reduced by:

(1) Any time during the period of appellate review that occurred before three years from the filing of the first national application for patent presented for examination; and

(2) Any time during the period of appellate review, as determined by the Director, during which the applicant for patent did not act with due diligence. In determining the due diligence of an applicant, the Director may examine the facts and circumstances of the applicant's actions

during the period of appellate review to determine whether the applicant exhibited that degree of timeliness as may reasonably be expected from, and which is ordinarily exercised by, a person during a period of appellate review.

(e) The provisions of this section apply only to original patents, except for design patents, issued on applications filed on or after June 8, 1995, and before May 29, 2000.

37 CFR 41.205 Settlement agreements.

(a) *Constructive notice; time for filing.* Pursuant to 35 U.S.C. 135(c), an agreement or understanding, including collateral agreements referred to therein, made in connection with or in contemplation of the termination of an interference must be filed prior to the termination of the interference between the parties to the agreement. After a final decision is entered by the Board, an interference is considered terminated when no appeal (35 U.S.C. 141) or other review (35 U.S.C. 146) has been or can be taken or had. If an appeal to the U.S. Court of Appeals for the Federal Circuit (under 35 U.S.C. 141) or a civil action (under 35 U.S.C. 146) has been filed the interference is considered terminated when the appeal or civil action is terminated. A civil action is terminated when the time to appeal the judgment expires. An appeal to the U.S. Court of Appeals for the Federal Circuit, whether from a decision of the Board or a judgment in a civil action, is terminated when the mandate is issued by the Court.

Opinion

The patent statute only permits extension of patent term based on very specific criteria. The Office has no authority to grant any extension or adjustment of the term due to administrative delays except as authorized by 35 U.S.C. § 154. 35 U.S.C. § 154 provides for patent term extension for appellate review, interference and secrecy order delays in utility and plant applications filed on or after June 8, 1995, and, as amended by the "American Inventors Protection Act of 1999," enacted November 29, 1999, as part of Public Law 106-113, for other specifically defined administrative delays in utility and plant applications filed on or after May 29, 2000.

The above-identified application was filed on September 1, 1998. Accordingly it is entitled to patent term extension based upon the conditions in 35 U.S.C. § 154(b), in effect on June 8, 1995. The provisions of 35 U.S.C. § 154(b) in effect on May 29, 2000 do not apply, because the amended version of 35 U.S.C. § 154(b) only applies to applications filed on or after May 29, 2000. Pursuant to 35 U.S.C. § 154(b), in effect on June 8, 1995, an applicant can receive patent term extension only if there was an appellate review, interference or a secrecy order delays as set forth in the statute.

According to 37 CFR 1.701(c)(1)(i), the application is entitled to patent term extension for the number of days, in the period beginning on the date the interference was declared to involve the application in the interference and ending on the date that the interference was terminated with

respect to the application. The interference was declared on July 18, 2006, the date of the Declaration of Interference. A final decision by the BPAI was entered and mailed on November 24, 2006, the date of the decision. According to 37 CFR 41.205, after a final decision by the BPAI is entered, interference is considered terminated when no appeal or other review has been or can be taken. As a result, the period of extension is 191 days, the period from July 18, 2006, the date of the declaration of interference to January 24, 2007, which is two months after the mailing of the decision by the BPAI including the beginning and end dates.

Petitioner's assertion that additional patent term extension (332 days) should be granted because the interference was not terminated until December 21, 2007, the date the application was dispatched to the Examiner, is not persuasive. In accordance with 37 CFR 41.205, the interference was terminated two months after the mail date of the decision by the BPAI, and when no further appeal was taken. After the BPAI entered the final decision, there were no further interference proceedings with respect to the application, thus the application is not entitled to additional patent term extension, regardless of whether the application remained in the BPAI's jurisdiction. Petitioner's assertion that the statute (§ 154) and rule (§ 1.701) should be read broadly and give great interpretational weight than 37 CFR 41.205 is not persuasive. In accordance with 35 U.S.C. 154 and 35 U.S.C. 135, patent term extension under the post GATT and pre AIPA statute only permits extension for the delay due to a proceeding under section 135(a) and a proceeding begins when the interference is declared and ends within the final decision. While Petitioner asserts that fairness dictates that the Office must grant additional term extension, the Office may only grant an extension as provided for by the statute. Petitioner's assertion that the failure to promptly forward the application was entirely within control of the Office is not persuasive. Petitioner could have contacted the Office or filed a paper concerning the termination of the interference.

According to 37 CFR 1.701 (c)(1)(ii), the application is entitled to patent term extension for the number of days, in the period beginning on the date prosecution in the application was suspended by the Patent and Trademark Office due to interference proceedings under 35 U.S.C. 135(a) not involving the application and ending on the date of the termination of the suspension.

Petitioner asserts that under 37 CFR 1.701(c)(1)(ii); the patent term extension should be 247 days for the delays due to the suspensions in prosecution due to an interference. With respect to petitioner's argument that the Office would like to distinguish between a suspension to await the out come of an interference and a suspension for a potential interference to, in order to implement 35 U.S.C. 154(b) (in effect between June 8, 1995 and May 28, 2000), the Office promulgated 37 CFR 1.701(c)(1), which, consistent with the statute, requires an interference proceeding under 35 U.S.C. 135(a) to be eligible for patent term extension. Petitioner's assertion that the statute (§ 135) and rule (§ 1.701) do not require such a reading and should be read to include delays from actual and from potential proceedings is not persuasive. In accordance with 35 U.S.C. 154 and 35 U.S.C. 135, patent term extension under the post GATT and pre AIPA statute only permits extension for the delay due to a proceeding under section 135(a) and a proceeding begins when the interference is declared and ends with the final

decision. While Petitioner asserts that fairness dictates that the Office must grant additional term extension, the Office may only grant an extension as provided by the statute.

Although prosecution was twice suspended in the above-identified application, the suspensions were due to a potential interference either with or involving one or more other applications. The suspensions were not for the reason that the subject application was involved in an interference, or to await the result of an interference proceeding in another application. As a result, the provisions of 37 CFR 1.701(c)(1)(ii) do not apply because this section applies to suspensions by the "Office due to interference proceedings under 35 U.S.C. 135(a) not involving the application," and in this instance there were no such other interference proceedings. Therefore, Petitioner's argument that he is entitled to an additional 247 days of patent term extension for the periods of the two suspensions under 37 CFR 1.701(c)(1)(ii) is not persuasive. The application is entitled to zero (0) days of patent term extension under 37 CFR 1.701(c)(1)(ii).

The Office has no authority to grant an extension of the term due to administrative delays except as authorized by 35 U.S.C. § 154.

Decision

The prior decision which refused to grant-in-part a petition under 35 U.S.C. 154(b) and 37 CFR 1.701 for patent term extension for the delayed issuance of the patent for the above-identified patent application has been reconsidered. For the reasons stated herein, and in the previous decision, however, additional patent term extension in this case cannot be granted under 35 U.S.C. § 154(b) and 37 CFR §§ 1.181 and 1.701. Therefore, the petitions are denied.

This decision may be viewed as a final agency action. See MPEP § 1002.02(b).

Telephone inquiries with regard to this communication should be directed to Mark O. Polutta at (571) 272-7709.



Brian Hanlon
Director
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,376,453 B1

DATED : May 20, 2008

INVENTOR(S): Diab et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 130 days.

Delete the phrase "by 130 days" and insert – by 191 days--



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100 E WISCONSIN AVENUE
Suite 3300
MILWAUKEE WI 53202

MAILED
MAY 16 2011
OFFICE OF PETITIONS

In re Patent No. 5,977,173	:	
Issue Date: November 2, 1999	:	
Application No. 09/148,006	:	NOTICE
Filed: September 4, 1998	:	
Patentee(s): John August Wos, et. al.	:	

This is a Notice regarding your "NOTIFICATION OF WITHDRAWAL OF CLAIM TO SMALL ENTITY STATUS" filed on April 14, 2011, which is being treated as a request for acceptance of a fee deficiency submission under 37 CFR 1.28(c).

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**. Therefore, status as a small entity has been removed and any future fee(s) submitted must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

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MAILED

AUG 05 2011

OFFICE OF PETITIONS

In re Patent No. 5,977,173 :
Issue Date: November 2, 1999 :
Application No. 09/148,006 :
Filed: September 4, 1998 :
Patentee(s): John August Wos, et. al. :

NOTICE

This is a Notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c), filed on July 15, 2011.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28(c) is hereby **ACCEPTED**. Therefore, status as a small entity has been removed.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

Pearl Cohen Zedek Latzer, LLP
1500 Broadway
12th Floor
New York NY 10036

MAILED
APR 19 2011
OFFICE OF PETITIONS

In re Application of :
Moutsatsos et al. :
Application No. 09/148,234 : DECISION ON PETITION
Filed: September 4, 1998 : PURSUANT TO
Attorney Docket No.: P-4739- : 37 C.F.R. § 1.137(B)
US :
Title: GENETICALLY :
ENGINEERED CELLS WHICH :
EXPRESS BONE MORPHOGENETIC :
PROTEINS :

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed January 26, 2011, to revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.137(b) is **DISMISSED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R. § 1.113 in a timely manner to the final Office action mailed July 20, 2010, which set a shortened statutory period for reply of three months. No response was received, no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were obtained, and no further responses were received. Accordingly, the above-identified application became abandoned on October 21, 2010. A notice of abandonment was mailed on March 3, 2011, subsequent to the filing of this petition.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
- (4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Applicant has submitted the petition fee and the proper statement of unintentional delay.

Petitioner has also submitted a three-month extension of time. An extension of time under 37 C.F.R. § 1.136 must be filed prior to the expiration of the maximum extendable period for reply.¹ Accordingly, since the \$ 1,110 extension of time submitted with the petition on January 26, 2011 was filed subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to Deposit Account No. 50-3355 in due course.

The second and third requirements of Rule 1.137(b) have been satisfied. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.²

The present petition is not grantable because the first requirement of Rule 1.137(b) has not been satisfied. Petitioner did not submit the required reply to the Office action. The required reply is the reply sufficient to have avoided abandonment, had such reply been timely filed.³ In order for the application to be revived, Petitioner must submit a reply which satisfies 37 C.F.R. § 1.137(b)(1) (i.e., a Notice of Appeal (and fee required by law); an amendment that *prima facie* places the application in condition for allowance; a continuing application under 37 C.F.R. § 1.53(b); a request for continuing examination under 37 C.F.R. § 1.114, if applicable; or a 37 C.F.R. § 1.129(a) submission, if applicable). None of these items appears to have been submitted with this petition.

1 See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).

2 See Rule 1.137(d).

3 See M.P.E.P. § 711.03(c).

Decision on Petition pursuant to 37 C.F.R. § 1.137(b)

If reconsideration of this petition is desired, Petitioner may file a reply including a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. § 1.137(b)." This is not a final agency action within the meaning of 5 U.S.C § 704.

If reconsideration of this decision is desired, any response to this decision must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. § 1.137(b)." This is not a final agency action within the meaning of 5 U.S.C § 704.

Any future submission concerning this matter should indicate in a prominent manner that the attorney handling this matter is Paul Shanowski, and may be submitted by mail,⁴ hand-delivery,⁵ or facsimile.⁶ Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.⁷

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.⁸ All other inquiries concerning examination procedures should be directed to the Technology Center.

/Paul Shanowski/
Paul Shanowski
Senior Attorney
Office of Petitions

4 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

5 Customer Window, Randolph Building, 401 Dulany Street, Alexandria, VA, 22314.

6 (571) 273-8300: please note this is a central facsimile number.

7 <https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html>

8 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DORSEY & WHITNEY LLP - MINNEAPOLIS (IP/PT-23)
INTELLECTUAL PROPERTY PRACTICE GROUP
ATTENTION: PATENT PROSECUTION DOCKETING DEPARTMENT
50 SOUTH SIXTH STREET, SUITE 1500
MINNEAPOLIS MN 55402-1498

MAILED

APR 21 2011

In re Patent No. 6,454,460
Issue Date: September 8, 1998
Application No. 09/149,517
Filed: May 28, 2002
Attorney Docket No. 6323

:
: **OFFICE OF PETITIONS**
: **ON PETITION**
:
:

This is a decision on the petition under 37 CFR 1.378(c), filed February 7, 2011 to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within **TWO (2) MONTHS** from the mail date of this decision. No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Any petition for reconsideration of this decision must be accompanied by the petition fee of \$400 as set forth in 37 CFR 1.17(f). The petition for reconsideration must include the lacking item(s) noted above, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner.

A petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. § 41(c) and 37 CFR 1.378(c) must be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2). This petition lacks item (1) above.

As to item (1) the statement of unintentional delay is presently not acceptable since the petition not signed by all of the inventors.

It is further noted that the typed name of Vijay Ramanathan was not followed by a signature.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
 Commissioner for Patents
 Post Office Box 1450
 Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
 Customer Service Window, Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300**.

Telephone inquiries should be directed to the Kimberly Inabinet at (571) 272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Vijay Ramanathan
 4809 – 55 Bremmer Blvd.
 Toronto, ON M5J 0A6
 CANADA



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6454460 :
Issue Date: September 24, 2002 :
Application No. 09149517 :DECISION GRANTING PETITION
Filed: September 8, 1998 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 6323 :

This is a decision on the electronic petition, filed June 14, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 14, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6454460	2002-09-24	09149517	1998-09-08	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input checked="" type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☐ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☒ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

A Joint Patentee and I certify that I am authorized to sign this submission on behalf of all the other patentees			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/Vijay Ramanathan/	Date (YYYY-MM-DD)	2011-06-14
Name	Vijay Ramanathan		
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DORSEY & WHITNEY LLP – MINNEAPOLIS
ATTENTION: PATENT PROSECUTION DOCKETING DEPARTMENT
INTELLECTUAL PROPERTY PRACTICE GROUP – PT/23RD FL
50 SOUTH SIXTH STREET, SUITE 1500
MINNEAPOLIS MN 55402-1498

In re Patent No. 6,454,460
Issue Date: September 24, 2002
Application No. 09/149,517
Filed: September 8, 1998
Attorney Docket No. 6323

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: LETTER
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MAILED
JAN 30 2012
OFFICE OF PETITIONS

This letter is the result of a sua sponte review of the June 14, 2011 electronically filed petition under 37 CFR 1.378(c) to accept the delayed payment of a maintenance fee in the above-identified application.

A review of USPTO records reveals that the “Petition To Accept Unintentionally Delayed Payment Of Maintenance Fee In An Expired Patent (37 CFR 1.378(c))” and the accompanying “Electronic Patent Application Fee Transmittal” submission filed June 14, 2011 were erroneously accepted. Petitioner has not submitted a renewed petition under 37 CFR 1.378(c), as required in the petition decision mailed April 21, 2011 along with the required \$400.00 reconsideration fee. Therefore, a petition for reconsideration under 37 CFR 1.378(e) along with the required \$400.00 reconsideration fee must be filed within **TWO (2) MONTHS** from the mail date of this letter.

If applicant fails to submit the above, the electronically filed, June 14, 2011, petition under 37 CFR 1.378(c) will be **VACATED** and the status will be changed to indicate that the above-identified patent is expired.

The renewed petition cannot be filed using the ePetition format but must instead be filed to the Office of Petitions for consideration.

Any inquiries directly pertaining to this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

Cc:

VIJAY RAMANATHAN
4809 – 55 BREMNER BLVD.
TORONTO, ON M5J 0A6, CANADA



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 10

Robert Maier
1605 Enterprise Parkway
Twinsburg, OH 44087

MAILED

APR 16 2012

OFFICE OF PETITIONS

In re Patent No. 5,970,656 :
Issued: October 26, 1999 :
Application No. 09/152,458 :
Filed: September 14, 1998 :
For: HOUSING ASSEMBLY WITH :
BEVELED RETAINERS FOR :
INSTALLATION IN A WINDOW :
FRAME :

ON PETITION

This is in response to the petition under 37 CFR 1.378(b), filed February 21, 2012, to accept the unavoidably delayed payment of the maintenance fee for the above-identified patent.

The patent issued October 26, 1999. The 11.5 year maintenance fee could have been paid from October 26, 2010 through April 26, 2011, or with a surcharge during the period from April 27, 2011 through October 26, 2011. Accordingly, the patent expired October 27, 2011, for failure to timely submit the 11.5 year maintenance fee.

The Director may accept the payment of any maintenance fee due on a patent after expiration of the patent if, upon petition, the delay in payment of the maintenance fee is shown to the satisfaction of the Director to have been unavoidable and if the surcharge required by § 1.20(i) is paid as a condition of accepting payment of the maintenance fee. 37 CFR 1.378(a).

A grantable petition to accept a **unavoidably** delayed maintenance fee payment under 37 CFR 1.378(b) must include the following: (1) the required maintenance fee set forth in § 1.20(e) through (g) (currently \$2,365.00 for a small entity); (2) the surcharge set forth in § 1.20(i)(1) (currently \$700); and (3) a showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The showing must enumerate the steps taken to ensure timely payment of the

maintenance fee, the date and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

Initially, the Office notes that on April 13, 2012, patentee submitted the present "PETITION TO ACCEPT UNAVOIDABLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(b) (Form PTO/SB/65)). However, patentee indicated on the form the fees being submitted as \$1,240.00 for the 7.5 year maintenance fee and \$1,640.00 for the surcharge fee. Patentee is advised that the 7.5 year maintenance fee in the amount of \$1,150.00 was previously paid on March 28, 2007. Therefore, the patent is expired for failing to pay the 11.5 year maintenance fee, currently \$2,365.00. Additionally, the surcharge fee of \$1,640.00 is the amount due when the late payment is UNINTENTIONALLY delayed (the surcharge fee for unavoidable delay is \$700.00). Therefore, it is unclear whether patentee intended to file a petition under 37 CFR 1.378(c) to accept the UNINTENTIONALLY delayed maintenance fee payment or a petition under 37 CFR 1.378(b) to accept the UNAVOIDABLY delayed maintenance fee payment.

Moreover, with the present petition, patentee submitted a credit card authorization form authorizing the Office to charge his credit card in the amount of \$2,880.00 for a different patent (Patent No. 6,604,324). Patentee did not provide a credit card authorization form for the required maintenance fee and surcharge in the appropriate amounts for this patent (Patent No. 5,970,656). The Office notes that the maintenance fee, as well as the required surcharge, must be paid as a condition for accepting the late maintenance fee on petition. As patentee did not submit any fees with this petition, the Office is unable to treat the present petition on the merits. Thus, the petition is dismissed.

Patentee is given TWO MONTHS from the mail date of this communication to file a petition under 37 CFR 1.378(b) or (c), accompanied by the 11.5 years maintenance fee in the amount of \$2,365.00 and the appropriate surcharge for late payment.

Patentee may wish to consider submitting a petition under 37 CFR 1.378(c), stating that the failure to timely remit the maintenance fee was unintentional instead of filing a petition under 37 CFR 1.378(b). Any petition to accept an **unintentionally** delayed payment of a maintenance fee must be filed within twenty-four months after the six-month grace period provided in § 1.362(e) and must include: (1) the required maintenance fee set forth in § 1.20 (e) through (g) (currently \$2,365.00 for a small entity); (2) the surcharge set forth in § 1.20(i)(2) (currently \$1,640.00); and (3) a statement that the delay in payment of the maintenance fee was unintentional. A copy the form for filing a PETITION TO ACCEPT UNITENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c) (Form PTO/SB/66) is enclosed for patentee's convenience.

It is noted that the address given on the petition differs from the address of record. However, the file does not indicate a change of address has been submitted. If appropriate, a change of address should be filed. As a one-time courtesy, a copy of this decision is being mailed to the address given on the petition. Thereafter, the Office will mail all future correspondence solely to the

Patent No. 5,970,656
Application No. 09/152,458

Page 3

address of record. Enclosed please find Form PTO/SB/123 which may be used to effect a proper change in correspondence address before the Office.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

By FAX: (571) 273-8300
 Attn: Office of Petitions

By hand: Customer Service Window
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

The patent file is being forwarded to Files Repository.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211.

/Christina Tartera Donnell/

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosures: Forms PTO/SB/66 and PTO/SB/123

Cc: PEARNE & GORDON LLP
 1801 EAST 9TH STREET
 SUITE 1200
 CLEVELAND OH 44114-3108



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**LITMAN LAW OFFICES, LTD.
PATENT LAW BUILDING
8955 CENTER STREET
MANASSAS VA 20110**

MAILED

DEC 13 2011

OFFICE OF PETITIONS

In re Patent No. 5,956,763
Issued: September 28, 1999
Application No. 09/152,506
Filed: September 14, 1998
Attorney Docket No. 14169.00

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ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed November 7, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on September 29, 2011 for failure to pay the eleven and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Additionally, the file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Walter W. Blackshear
3000 Quail Hollow Circle
Baytown, TX 77521



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6021588 :
Issue Date: February 8, 2000 :
Application No. 09152753 :DECISION GRANTING PETITION
Filed: September 14, 1998 :UNDER 37 CFR 1.378(c)
Attorney Docket No. :

This is a decision on the electronic petition, filed February 29, 2012, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 29, 2012. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,021,588	2000-02-08	09/152,753	1998-09-14	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input checked="" type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☐ An attorney or agent registered to practice before the Patent and Trademark Office
- ☒ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Sole Patentee			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/Todd A. Alviso/	Date (YYYY-MM-DD)	2012-02-29
Name	Todd A. Alviso		
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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Alexandria, VA 22313-1450
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WHITHAM, CURTIS & CHRISTOFFERSON & COOK, P.C.
11491 SUNSET HILLS ROAD
SUITE 340
RESTON VA 20190

MAILED
JUN 20 2011
OFFICE OF PETITIONS

In re Patent No. 6,509,988	:	
Issue Date: January 21, 2003	:	
Application No. 09/154,161	:	ON PETITION
Filed: September 16, 1998	:	
Attorney Docket No. NE-899-US	:	

This is a decision on the petition under 37 CFR 1.378(c), filed May 26, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on January 22, 2011, for failure to pay the seven and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

The patent file is being forwarded to Files Repository.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Jordan C. Powell
243 N. Bald Mountain Drive
Alpine, UT 84004



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OFFICE OF PETITIONS

ALAN H MACPHERSON
SKJERVEN MORRILL MACPHERSON
FRANKLIN & FRIEL
25 METRO DRIVE SUITE 700
SAN JOSE CA 95110-1349

In re Patent No. 5,970,020
Issue Date: October 19, 1999
Application No.: 09/154,664
Filed: September 16, 1998
Attorney Docket No.: M-5961US

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c), filed October 20, 2011.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**. The change of status to a large entity has been entered and made of record.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of fee address (form PTO/SB/47) and a request for customer number (form PTO/SB/125) should be filed in accordance with Manual of Patent Examining Procedure, section 2540. A courtesy copy of this decision is being mailed to the address on the petition. However, the Office will mail all future correspondence solely to the address of record.

This file is being forwarded to the Files Repository.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3230.

A handwritten signature in black ink, reading "Shirene Willis Brantley". The signature is written in a cursive, flowing style.

Shirene Willis Brantley
Petitions Attorney
Office of Petitions

CC: WINSTON O. HUFF
NAVARRO HUFF, PLLC
302 N. MARKET STREET
SUITE 450
DALLAS TX 75202



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Alexandria, VA 22313-1450
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In re Patent No.	6453199	:
Issue Date:	September 17, 2002	:
Application No.	09155820	:DECISION GRANTING PETITION
Filed:	September 30, 1998	:UNDER 37 CFR 1.378(c)
Attorney Docket No.	KOB-048	:

This is a decision on the electronic petition, filed November 16, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 16, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,453,199	2002-09-17	09/155,820	1998-09-30	KOB-048

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|---------------------------------|-----|--------|
| <input type="radio"/> 3 ½ year | | (1551) |
| <input type="radio"/> 7 ½ year | | (1552) |
| <input type="radio"/> 11 ½ year | | (1553) |

Small Entity

- | | Fee | Code |
|---|-----|--------|
| <input type="radio"/> 3 ½ year | | (2551) |
| <input checked="" type="radio"/> 7 ½ year | | (2552) |
| <input type="radio"/> 11 ½ year | | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Sherman D. Pernia/	Date (YYYY-MM-DD)	2010-11-16
Name	Sherman D. PERNIA	Registration Number	34404
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

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The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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Walter S. Miller, Sr.
8222 Douglas Avenue, Suite 777
Dallas, Texas 75225

MAILED

APR 03 2012

OFFICE OF PETITIONS

In re Patent No. 6,220,352 :
Issue Date: April 24, 2001 :
Application No. 09/157,427 : **ON PETITION**
Filed: September 21, 1998 :
For: PROCEDURE TO MOBILE :
ASPHALTENE-BASED CRUDE WITH A :
MICELLE SOLVENT :

This is a decision on the petition under 37 CFR 1.378(b), filed February 24, 2012, to accept the unavoidably delayed payment of a maintenance fee for the above-identified patent. This is also a decision on the petition to expedite under 37 CFR 1.182, filed March 20, 2012.

DECISION UNDER 37 CFR 1.182

In accordance with 37 CFR 1.182, “[a]ll situations not specifically provided for in the regulations of this part will be decided in accordance with the merits of each situation by or under the authority of the Director, subject to such other requirements as may be imposed, and such decision will be communicated to the interested parties in writing. Any petition seeking a decision under this section must be accompanied by the petition fee set forth in § 1.17(f).”

The petition under 37 CFR 1.182 filed March 20, 2012 requests that the petition under 37 CFR 1.378(b) filed February 24, 2012 be expedited. The general policy at the Office of Petitions at the USPTO is to treat petitions in the order in which they are filed. However, when able, the Office of Petitions will consider taking a petition out of order when such a petition under 37 CFR 1.182 is filed making such request.

In view thereof, the petition to expedite is hereby **GRANTED**.

Petitioner is advised that any future petitions filed in connection with the instant patent will be treated in keeping with currently Office of Petitions policy, i.e., the petition will be decided in the order in which it is filed.

DECISION UNDER 37 CFR 1.378(b)

The petition under 37 CFR 1.378(b) is **DISMISSED**.

The patent issued April 24, 2001. The 7.5 year maintenance fee could have been paid from April 24, 2008 through October 24, 2008, or with a surcharge during the period from October 25, 2008 through April 24, 2009. Accordingly, the patent expired April 24, 2009, for failure to timely submit the 7.5 year maintenance fee.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this 2-month time limit can be granted under 37 CFR 1.136(a) or (b). Any such petition for reconsideration must be accompanied by the petition fee of \$400 as set forth in 37 CFR 1.17(f). The petition for reconsideration should include an exhaustive attempt to provide the lacking item(s) noted below, since, after a decision on the petition for reconsideration, the Director will undertake no further reconsideration or review of the matter.

A petition to accept the delayed payment of a maintenance fee under 35 U.S.C. § 41(c) and 37 CFR 1.378(b) must be accompanied by (1) an adequate showing that the delay was unavoidable, since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent, (2) payment of the appropriate maintenance fee, unless previously submitted, and (3) payment of the surcharge set forth in 37 CFR 1.20(i)(1).

Petitioner herein asserts that he is the Managing Trustee of ETechMM and has included herewith a statement under 37 CFR 3.73(b).

Petitioner states that the delay in payment of the 7.5 year maintenance fee was unavoidable due to "the health decline, disability, and ultimate death of the previous Managing Trustee, James H. Coker. Mr. Coker died on September 24, 2011, and had been in a state of physical and mental incapacity for over 3 years prior to his death and not available for business decisions."

Petitioner further states that during Mr. Coker's incapacity, he "took all reasonable steps to conduct corporate business and to ensure timely payments were made. Such steps were thwarted due to the following:

1. Mr. Coker had the sole decision-making and financial responsibility and authority until his death,
2. Mr. Coker was not available or able to make business decisions, and
3. I was not able to serve as Managing Trustee until Mr. Coker's death. Following Mr. Coker's death, I assumed the duties of Successor Managing Trustee and worked to gain control of the ETechMM corporate records. I became aware of the expiration of the Patent on January 28, 2012 and since then I have worked diligently to obtain new legal counsel, review the files and then as promptly as possible to gain the information and forms necessary to file this petition. Therefore, the Applicant respectfully requests that this petition for re-instatement be granted."

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.378(b)(3).

Acceptance of late payment of a maintenance fee is considered under the same standard as that for reviving an abandoned application under 35 U.S.C. § 133 because 35 U.S.C. § 41(c)(1) uses the identical language, i.e. "unavoidable delay". Ray v. Lehman, 55 F.3d 606, 608-09, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995)(quoting In re Patent No. 4,409,763, 7 USPQ2d 1798, 1800 (Comm'r Pat. 1988)). Decisions on reviving abandoned applications have adopted the "reasonably prudent person" standard in determining if the delay in responding to an Office action was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-515 (D.C. Cir. 1912); and Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141. In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition to revive an application as unavoidably abandoned cannot be granted where a petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

In essence, petitioner must show that Mr. Croker was aware of the need to pay the maintenance fee, and to that end was tracking it, or had engaged someone to track it before the expiration, but when the fee came due, was "unavoidably" prevented from making the maintenance fee payment due to Mr. Coker's medical conditions until the petition was filed.

In determining whether a delay in paying a maintenance fee was unavoidable, one looks to whether the party responsible for payment of the maintenance fee exercised the due care of a reasonably prudent person. Ray, 55 F3d at 608-609, 34 USPQ2D at 1787. It is incumbent upon the patent owner to implement steps to schedule and pay the fee, or obligate another to do so. See California Medical Products v. Technol. Med. Prod., 921 F.Supp 1219, 1259 (D. Del. 1995). That is, 37 CFR 1.378(b)(3) requires a showing of the steps in place to pay the maintenance fee, and the record currently lacks a showing that any steps were emplaced by Mr. Croker or anyone else. In the absence of a showing that the Mr. Croker or anyone else was engaged in tracking the maintenance fee due dates, and that party had in fact been tracking the due dates with a reliable tracking system, such as would be used by prudent and careful men in relation to their most important business, petitioner cannot reasonably show that the delay was unavoidable delay. In re Katrapat, 6 USPQ2d 1863, 1867-1868 (Comm'r Pat. 1988); California, supra. Put otherwise, the issues of Mr. Coker's health problems are immaterial in the absence of a showing that these, and not the lack of any steps in place to pay the fee, caused or contributed to the delay.

Petitioner asserts that Mr. Coker had the authority as managing trustee to pay the maintenance fee and that petitioner himself lacked the requisite authority to do so until he became managing trustee following the death of Mr. Croker. Unfortunately, any delay resulting from the actions or

inactions of Mr. Croker is binding. See, Winkler v. Ladd, 221 F.Supp. 550, 552, 138 USPQ 666, 667 (D.D.C. 1963). While petitioner became managing trustee after the death of Mr. Croker on or about September 24, 2011, such merely gave petitioner the authority to file the instant petition on or after that date. That one may have subsequently exercised diligence after their assumption of title and belated awareness of the need to pay the fee does not convert the preceding delay into unavoidable delay. See Kim v. Quigg, 718 F.Supp. 1280, 12 USPQ2d 1604 (E.D. Va 1989).

Any renewed petition must establish that the entire period of delay from the time that the maintenance fee was due until the time of the filing of a grantable petition has been unavoidable. Petitioner is reminded that any renewed petition should entail an exhaustive effort to establish that the failure to timely pay the maintenance fee was unavoidable as after reconsideration pursuant to 37 CFR 1.378(e), no further reconsideration regarding unavoidable delay will be undertaken.

The record fails to establish that patentee took adequate steps to ensure timely payment of the maintenance fee as required by 37 CFR 1.378(b)(3). Since adequate steps were not taken by patentee, 37 CFR 1.378(b) precludes acceptance of the delayed payment of the maintenance fee. Petitioner may request a refund of the surcharge and maintenance fee submitted with the instant petition by writing to the Finance Office, Refund Section. A copy of this decision should accompany any request for refund.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
 Commissioner for Patents
 Post Office Box 1450
 Alexandria, VA 22313-1450

By Hand: U. S. Patent and Trademark Office
 Customer Service Window, Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/15/10

TO SPE OF : ART UNIT 3626 (3600)

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/157,998 Patent No.: 7,801,740

C of C mailroom date 12/2/2010

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Ernest C. White, LIE

Certificates of Correction Branch

703-756-1814 or 571-272-3385

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not apply.**

☐ **Denied**

State the reasons for denial below.

SPE /Robert Morgan/ ART UNIT 3626

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/15//10

TO SPE OF : ART UNIT 3626 (3600)

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/157,998 Patent No.: 7,801,740

C of C mailroom date 12/2/2010

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Ernest C. White, LIE

Certificates of Correction Branch

703-756-1814 or 571-272-3385

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

SPE /Robert Morgan/ ART UNIT 3626



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ROBERT M SPERRY
23390 OSTRONIC DRIVE
WOODLAND HILLS CA 91367

MAILED
FEB 14 2011
OFFICE OF PETITIONS

In re Patent No. 6,194,925	:	Paper No. 12
Issue Date: January 09, 2001	:	
Application No. 09/158,192	:	DECISION ON PETITION
Filed: September 21, 1998	:	
Attorney Docket No.	:	

This is a decision on the petition under 37 CFR 1.378(c), filed December 17, 2010, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Any petition for reconsideration of this decision must be accompanied by the petition fee of \$400 as set forth in 37 CFR 1.17(f). The petition for reconsideration must include the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

A petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. 41(c) and 37 CFR 1.378(c) must be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2). This petition lacks item (2) and (3) above as the Office was unable to charge the maintenance fee and surcharge to the credit card number listed on the form PTO-2038. The credit card number listed on the PTO-2038 has been declined.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of fee address (form PTO/SB/47) and a request for customer number (form PTO/SB/125) should be filed in accordance with Manual of Patent Examining Procedure, section 2540. A courtesy copy of this decision is being mailed to the address on the petition. However, the Office will mail all future correspondence solely to the address of record.

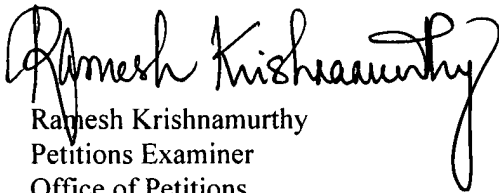
Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
 Commissioner for Patents
 Post Office Box 1450
 Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
 Customer Service Window, Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Telephone inquiries should be directed to Tredelle Jackson at 571-272-2783.


Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: **ANTONY J. KUBICHAN**
 19481 ROSITA ST.
 TARZANA CA 91356



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6361545 :
Issue Date: March 26, 2002 :
Application No. 09158405 :DECISION GRANTING PETITION
Filed: September 22, 1998 :UNDER 37 CFR 1.378(c)
Attorney Docket No. CARDE.49355 :

This is a decision on the electronic petition, filed March 8, 2012, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 8, 2012. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6361545	2002-03-26	09158405	1998-09-22	71723-5003

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input checked="" type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☐ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☒ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

The Assignee of record of the entire interest			
Under 37 CFR 3.71 an assignee becomes of record by filing a statement in compliance with 37 CFR 3.73(b). Signature requirements are set forth in 37 CFR 1.4(d), and the undersigned certifies that he / she is empowered to act on behalf of the assignee of the entire interest			
Signature	/Wilfred J. Samson/		Date (YYYY-MM-DD) 2012-03-01
Name	Wilfred J. Samson		
Enter Reel and Frame Number		Remove	
Reel Number	013718	Frame Number	0555
Enter Reel and Frame Number		Remove	
Reel Number	027119	Frame Number	0089
Click ADD for additional Reel Number and Frame Number		Add	
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

JOSEPH MICHAEL BENNETT
5722 CRAIGMONT COURT
HUBER HEIGHTS OH 45424

MAILED
JUL 25 2011
OFFICE OF PETITIONS

In re Patent No. 6,016,874 :
Issued: 01/25/2000 :
Application No. 09/158,677 : NOTICE
Filed: 09/22/1998 :
Title: COMPACT AFFORDABLE INERT :
GAS FIRE EXTINGUISHING SYSTEM :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed July 7, 2011.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JOHN P SHANNON
LANE AITKEN & MCCANN
2600 VIRGINIA AVE NW
WASHINGTON DC 20037

MAILED
MAR 26 2012
OFFICE OF PETITIONS

In re Application of

Alan Patterson et al.
Application No. 09/159,680
Filed: September 24, 1998
Attorney Docket No.

NOTICE

This is a notice regarding your request filed March 6, 2012, for acceptance of a fee deficiency submission under 37 CFR 1.28.

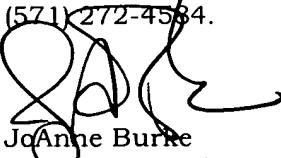
The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Kendal M. Sheets appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If, Kendal M. Sheets desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to Kendal M. Sheets, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-4584.


JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Kendal M. Sheets
CPA Global
2318 Mill Road, Suite 12 Floor
Alexandria, VA 22314

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6226274	2001-05-01	09160010	1998-09-24	227/177

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input checked="" type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Kendal M. Sheets/	Date (YYYY-MM-DD)	2010-09-30
Name	Kendal M. Sheets	Registration Number	47077
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No.	6226274	:
Issue Date:	May 1, 2001	:
Application No.	09160010	:DECISION GRANTING PETITION
Filed:	September 24, 1998	:UNDER 37 CFR 1.378(c)
Attorney Docket No.	227/177	:

This is a decision on the electronic petition, filed October 4, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 4, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No.	6297113	:
Issue Date:	October 2, 2001	:
Application No.	09161745	:DECISION GRANTING PETITION
Filed:	September 29, 1998	:UNDER 37 CFR 1.378(c)
Attorney Docket No.	50090-087	:

This is a decision on the electronic petition, filed January 6, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 6, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6297113	2001-10-02	09161745	1998-09-29	ID 003211

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input checked="" type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/SMG/	Date (YYYY-MM-DD)	2011-01-06
Name	Steven M. Gruskin	Registration Number	36818
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No.	6539023	:
Issue Date:	March 25, 2003	
Application No.	09161907	:DECISION GRANTING PETITION
Filed:	September 28, 1998	:UNDER 37 CFR 1.378(c)
Attorney Docket No.	TRA-047	:

This is a decision on the electronic petition, filed September 14, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 14, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6539023	2003-03-25	09161907	1998-09-28	TRA-047

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input checked="" type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☐ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☒ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

The Assignee of record of the entire interest			
Under 37 CFR 3.71 an assignee becomes of record by filing a statement in compliance with 37 CFR 3.73(b). Signature requirements are set forth in 37 CFR 1.4(d), and the undersigned certifies that he / she is empowered to act on behalf of the assignee of the entire interest			
Signature	/Theodore Chung/		Date (YYYY-MM-DD) 2011-08-09
Name	Theodore Chung		
Enter Reel and Frame Number		Remove	
Reel Number	010513	Frame Number	0230
Enter Reel and Frame Number		Remove	
Reel Number	010577	Frame Number	0079
Enter Reel and Frame Number		Remove	
Reel Number	010577	Frame Number	0094
Enter Reel and Frame Number		Remove	
Reel Number	011053	Frame Number	0316
Click ADD for additional Reel Number and Frame Number		Add	
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

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1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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**MCQUAIDE BLASKO
811 UNIVERSITY DRIVE
STATE COLLEGE PA 16801**

MAILED
FEB 29 2012
OFFICE OF PETITIONS

In re Patent No. 5,972,661
Issue Date: October 26, 1999
Application No. 09/162,088
Filed: September 28, 1998
Attorney Docket No. ML-0444

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:
:
:
:

ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed January 19, 2012, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on October 26, 2011, for failure to pay the eleven and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted.

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

The patent file is being forwarded to Files Repository.

/Diane Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions



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In re Patent No. 6041219 :
Issue Date: March 21, 2000 :
Application No. 09164574 :DECISION GRANTING PETITION
Filed: October 1, 1998 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 030649-031 :

This is a decision on the electronic petition, filed April 13, 2012, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 13, 2012. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6041219	2000-03-21	09164574	1998-10-01	GRAW104

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input checked="" type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Robert L. Shaver/	Date (YYYY-MM-DD)	2012-04-13
Name	Robert L. Shaver	Registration Number	42145
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

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4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
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6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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June 8, 2011

Faize B. Jaffer
Intellipharmaeueutics Corp.
30 Worcester Road
Toronto, Ontario
Canada M9W5X2

Patent No. : 7,906,143 B1
Ser. No. : 09/166,701
Inventor(s) : Isa Odidi, et al.
Issued : March 15, 2011
Docket No. :
Title : CONTROLLED RELEASE PHARMACEUTICAL DELIVERY DEVICE AND PROCESS FOR PREPARATION THEREOF

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing incorrect or erroneous assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 (*see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481*). This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

- A. the processing fee set forth in 37 CFR 1.17(i) (currently \$130);**
- B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and**
- C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.**

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
 Commissioner for Patents
 Post Office Box 1450
 Alexandria, VA 22313-1450

By hand: Customer Service Window
 Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

By fax: (571) 273-0025
 ATTN: Office of Petitions

If a fee (currently \$100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

/Virginia Tolbert/
Virginia Tolbert
For Mary Diggs
Decisions & Certificates
 of Correction Branch
(571) 272-0460 or (703) 756-1814

vt



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

FOLEY HOAG, LLP
PATENT GROUP, WORLD TRADE CENTER WEST
155 SEAPORT BLVD
BOSTON MA 02110

MAILED

JUL 29 2011

In re Application of	:	
Odidi et al.	:	OFFICE OF PETITIONS
Application No. 09/166,701	:	
In re Patent No. 7,906,143	:	DECISION ON PETITION
Filing Date: October 5, 1998	:	PURSUANT TO 37 C.F.R.
Issue Date: March 15, 2011	:	§ 3.81(B)
Attorney Docket Number: SMI-	:	
005.01	:	
Title: CONTROLLED RELEASE	:	
PHARMACEUTICAL DELIVERY DEVICE	:	
AND PROCESS FOR PREPARATION	:	
THEREOF	:	

This is a decision on the petition pursuant to 37 C.F.R. § 3.81(b), filed July 5, 2011, to correct the Assignee's information on the Issue Fee Transmittal Form PTOL-85(b).

The petition is **GRANTED**.

With this petition, Petitioner requests that a Certificate of Correction be issued to correct the assignee information that appears on the face of the patent. On May 13, 2011, Petitioner submitted a "Certificate of Correction" for this purpose, which requests the addition of assignee "Intellipharmaeueutics Corp."

37 C.F.R. § 3.81(b), effective June 25, 2004, reads:

(b) After payment of the issue fee: Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in 3.11 before issuance of the patent, and must include a request for a

certificate of correction under 1.323 of this chapter (accompanied by the fee set forth in 1.20(a)) and the processing fee set forth in 1.17(i) of this chapter.

Petitioner has not set forth that the assignment was submitted for recordation as set forth in 37 C.F.R. § 3.11 before issuance of the patent. However, it is noted that Office records indicate that an assignment was received in the Office on March 21, 2003, and as such, this requirement of 37 C.F.R. § 3.81(b) is waived, *sua sponte*.

Payment of the required \$100 certificate of correction fee and the \$130 processing fee is acknowledged.

The Certificates of Correction Branch will be notified of this decision so that the requested Certificate of Correction can be issued, adding "Intellipharmaeueutics Corp." as the assignee.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 756-1814.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If Petitioner desires to receive future correspondence regarding this patent, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to the address which appears on the petition. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this patent unless Change of Correspondence Address, Patent Form (PTO/SB/123) is submitted for the above-identified patent. For Petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/123), may be found at <http://www.uspto.gov/web/forms/sb0123.pdf>.

If appropriate, a change of fee address (form PTO/SB/47) and a request for customer number (form PTO/SB/125) should be filed in accordance with Manual of Patent Examining Procedure, section 2540.

Application No. 09/166,701
Patent No. 7,906,143

Page 3

A blank fee address form may be found at
<http://www.uspto.gov/web/forms/sb0047.pdf>.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: Intellipharmaeutics Corp.
30 Worcester Road
Toronto, Ontario M9W 5X2
CANADA



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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ST JUDE MEDICAL ATRIAL FIBRILLATION DIVISION
LEGAL DEPARTMENT
ONE ST JUDE MEDICAL DRIVE
ST PAUL MN 55117-9913

MAILED
JAN 23 2012
OFFICE OF PETITIONS

In re
Nguyen, et al.
Application No. 09/169,107
Filed: October 9, 1998
Patent No. 6,006,123
Issued: December 21, 1999

DECISION

This is a decision on the fee deficiency submission under 37 CFR 1.28(c), filed December 22, 2011.

The fee deficiency submission under 37 CFR 1.28 of \$1700 for the 7.5 year maintenance fee is hereby accepted.

The change of status to large entity has been entered.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions



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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6378067 :
Issue Date: April 23, 2002 :
Application No. 09170132 :DECISION GRANTING PETITION
Filed: October 12, 1998 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 002379.P061 :

This is a decision on the electronic petition, filed October 18, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 18, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6378067	2002-04-23	09170132	1998-10-12	002379.P061

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input checked="" type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Kendal M. Sheets/	Date (YYYY-MM-DD)	2010-10-15
Name	Kendal M. Sheets	Registration Number	47077
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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John G. Shaw
4401 Lakeshore Road
Newcastle Ontario
L181L9 CANADA

MAILED
MAY 13 2011
OFFICE OF PETITIONS

In re Patent No. 6,108,992
Issued: August 29, 2000
Application No.: 09/170,234
Filing Date: October 13, 1998
Attorney Docket No. **1123U101**

:
: REQUEST FOR INFORMATION
:
:
:

This is a request for information in response to the petition under 37 CFR 1.378(b), filed April 18, 2011, to reinstate the above-cited patent.

Petitioner is allowed a non-extendable period for reply of **TWO (2) MONTHS** from the mailing date of this communication to provide a response. The response should be titled, "Response to Request for Information." If no response is provided within the period set forth, a decision will be made solely on the merits as set forth in the petition under 37 CFR 1.378(b) filed April 18, 2011. No additional fees are due.

The patent issued August 29, 2000. The 7.5 year maintenance fee could have been paid from August 29, 2007, through February 28, 2008, or with a surcharge, as authorized by 37 CFR 1.20(h), during the period from March 1, 2008, to August 29, 2008. Petitioner did not do so. Accordingly, the patent expired at midnight on August 29, 2008.

Petitioner is required to address the following points:

- A successful petition under 37 CFR 1.378(b) must affirmatively identify the cause of the delay in paying the maintenance fee and provide a statement from every person with first-hand knowledge of the circumstances surrounding the delay in paying the maintenance fee. Petitioner must provide statements from any person who may have been charged with paying the maintenance fee and statements from any person with first-hand knowledge of the circumstances surrounding the failure to pay the maintenance fees. This would presumably include a statement from Mr. Andree Arff who petitioner asserts was the assignee for the patent.
- 37 CFR 1.378(b)(3) sets forth that a petition submitted under this portion of the Code of Federal Regulations must include a showing which is described as follows:

A showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which patentee became aware of the

expiration of the patent, and the steps taken to file the petition promptly.

Petitioner must, therefore, describe the steps that were in place to ensure that the maintenance fee was timely paid. This showing would include an explanation of who was responsible for paying tracking and paying the maintenance fee and the method this person, or entity, used for tracking the maintenance fee

- Petitioner must describe when petitioner became aware that the patent was expired and the steps petitioner took to reinstate the patent

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patent
Mail Stop Petitions
Box 1450
Alexandria, VA 22313-1460

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petition Attorney
Office of Petitions



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John G. Shaw
4401 Lakeshore Road
Newcastle Ontario
L181L9 CANADA

MAILED

SEP 07 2011

OFFICE OF PETITIONS

In re Patent No. 6,108,992 :
Issued: August 29, 2000 : REQUEST FOR INFORMATION
Application No.: 09/170,234 :
Filing Date: October 13, 1998 :
Attorney Docket No. **1123U101** :

This is a request for information in response to the petition under 37 CFR 1.378(b), filed August 16, 2011, to reinstate the above-cited patent. It is noted that supplements to the response were filed on May 31, 2011, and August 5, 2011.

Petitioner is allowed a non-extendable period for reply of **TWO (2) MONTHS** from the mailing date of this communication to provide a response. The response should be titled, "Response to Request for Information." If no response is provided within the period set forth, a decision will be made solely on the merits as set forth in the petition under 37 CFR 1.378(b) filed April 18, 2011. No additional fees are due.

The patent issued August 29, 2000. The 7.5 year maintenance fee could have been paid from August 29, 2007, through February 28, 2008, or with a surcharge, as authorized by 37 CFR 1.20(h), during the period from March 1, 2008, to August 29, 2008. Petitioner did not do so. Accordingly, the patent expired at midnight on August 29, 2008.

Petitioner is required to address the following points:

- The USPTO must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and the applicant is bound by the consequences of those action or inactions. See *Link v. Wabash*, 370 U.S. 626, 633-634 (1962). Specifically, petitioner's delay caused by the mistakes or negligence of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 USC 133. The actions of the attorney are imputed to the client, for when a petitioner voluntarily chooses an attorney to represent him, the petitioner cannot later avoid the repercussions of the actions or inactions of this selected representative for clients are bound by the acts of their lawyers/agents, and constructively possess "notice of all facts, notice of which can be charged upon the attorney" *Id.*

It is noted that petitioner's August 16, 2011, filing relies, in large measure, on the premise that Mr. Andre Arff, to whom the patent was previously assigned, was responsible for tracking and paying the maintenance fees for the patent. Further, a letter from Mr. Arff indicates that he was responsible for paying the maintenance fee, but did not pay the maintenance fee and failed to notify the patentee that he did not pay the fee. A successful petition under 37 CFR 1.378(b) requires that petitioner establish that the entire delay in paying the maintenance fee was

- It is noted that petitioner states that petitioner became aware that the 7.5-year maintenance fee was not paid in 2009, yet petitioner did not file a petition to reinstate the patent until April 2011. Petitioner states that petitioner inquired with Mr. Arff about the expiration of the patent and was told that Mr. Arff would look into the matter. Petitioner is advised, however, that as the sole inventor petitioner could have contacted the USPTO and inquired into the matter and even filed a petition to reinstate the patent at that time. Petitioner must explain how petitioner's failure to take any action soon after petitioner discovered the patent was expired in 2009, was unavoidable.
- It is noted that petitioner states that suffered a series of heart attacks beginning and 2008 and culminating with a heart attack in November 2010 that resulted in open heart surgery in November 2010. Certainly ill health can be a considered unavoidable delay; however, petitioner must provided documentary evidence of petitioner's ill health. Such would include medical records and/or statements from the treating physician documenting the time frame and severity of petitioner's illness. Petitioner is cautioned to be redact all personal identifiers such as, social security numbers and account numbers as these papers may be viewable to the public.

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petition Attorney
Office of Petitions



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John G. Shaw
4401 Lakeshore Road
Newcastle Ontario
L181L9 CANADA

MAILED

SEP 26 2011

OFFICE OF PETITIONS

In re Patent No. 6,108,992 :
Issued: August 29, 2000 : ON PETITION
Application No.: 09/170,234 :
Filing Date: October 13, 1998 :
Attorney Docket No. 1123U101 :

This is in response to the response to the "Request for Information" filed September 15, 2011.

The petition is **dismissed**.

The patent issued August 29, 2000. The 7.5 year maintenance fee could have been paid from August 29, 2007, through February 28, 2008, or with a surcharge, as authorized by 37 CFR 1.20(h), during the period from March 1, 2008, to August 29, 2008. Petitioner did not do so. Accordingly, the patent expired at midnight on August 29, 2008.

A grantable petition under 37 CFR 1.378(b) must be accompanied by a showing to the satisfaction of the Commissioner that the entire delay in paying the required maintenance fee from the due date for the fee until the filing of a grantable petition pursuant to this paragraph was unavoidable. The showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable within the meaning of 37 CFR 1.378(b).

Opinion

Petitioner must establish that petitioner treated the patent the same as a reasonable and prudent person would treat his or her most important business.

The general standard applied by the Office requires petitioner to establish that petitioner treated the patent the same as a reasonable and prudent person would treat his or her most important business.¹

¹The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard. 35 U.S.C. 41(c)(1) states, "The Commissioner may accept the payment of any maintenance fee . . . at any time . . . if the delay is shown to the satisfaction of the Commissioner to have been unavoidable." (emphasis added).

"In the specialized field of patent law, . . . the Commissioner of Patent and Trademarks is primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. His interpretation of those provisions is entitled to considerable deference." Rydeen v. Quigg, 748 F. Supp. 900, 904, 16 U.S.P.Q2d (BNA) 1876 (D.D.C. 1990), aff'd without opinion Rule 36), 937 F.2d 623 (Fed Cir. 1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d agencies' interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) ("if the statute is silent or

However, “[t]he question of whether an applicant’s delay in prosecuting an application was unavoidable [will] be decided on a case-by-case basis, taking all of the facts and circumstances into account.”² Nonawareness of the content of, or misunderstanding of PTO statutes, PTO rules, the MPEP, or the Official Gazette notices does not constitute unavoidable delay.³ The statute requires a “showing” by petitioner, therefore; petitioner has the burden of proof. The decision will be based solely on the written, administrative record in existence. It is not enough that the delay was unavoidable; petitioner must prove that the delay was unavoidable. A petition will not be granted if petitioner provides insufficient evidence to “show” that the delay was unavoidable.

Petitioner is responsible for possessing knowledge of the need to pay maintenance fees and the due dates for such fees, Petitioner is responsible for instituting a reliable docketing system to remind him or her when maintenance fees become due.

Petitioner is responsible for having knowledge of the need to pay maintenance fees and knowing when the fees are due.⁴ The Office has no duty to notify a patentee of the requirement to pay maintenance fees or to notify patentee when a maintenance fee is due.⁵ Even if the Office were

ambiguous with respect to the specific issue, the question for the court is whether the agency’s answer is based on a permissible construction of the statute.”))

“The critical phrase ‘unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable’ has remained unchanged since first enacted in 1861.” Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982). The standard for “unavoidable” delay for reinstating a patent is the same as the unavoidable standard for reviving an application. See Ray v. Lehman, 55 F. 3d 606, 608-609, 34 U.S.P.Q.2d (BNA) 1786, 1781 (Fed Cir. 1995) (Citing In re patent No. 4,409,763, 7 U.S.P.Q.2d BNA) 1798, 1800 (Comm’r Pat. 1990; Smith v. Mossinghoff, 671 F. 2d 533, 538, 213 U.S.P. Q. (BNA) 977 (D.C. Cir. 1982). The court in In re Mattullath, accepted the standard which had been proposed by Commissioner Hall which “requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business.” In re Mattullath, 38 App. D.C. 497, 514-515 (1912) (quoting Ex parte Pratt, 1887 Dec. Comm’r Pat 31, 32-33 (1887)).

²Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (1982).

³See Smith v. Mossinghoff, 671 F. 2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel’s nonawareness of PTO rules does not constitute “unavoidable” delay)); Vincent v. Mossinghoff, 1985 U.S. Dist. LEXIS 23119, 13, 230 U.S.P.Q. (BNA) 621 (D.D.C. 1985) (plaintiffs, through their counsel’s action, or their own, must be held responsible for having noted the MPEP section and Official Gazette notices expressly stating that the certified mailing procedures outlined in 37 CFR 1.8(a) do not apply to continuation applications.) (Emphasis added).

⁴Nonawareness of PTO statutes, PTO rules, the MPEP, or Official Gazette notices, which state maintenance fee amounts and dates they are due does not constitute unavoidable delay. See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. *BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel’s nonawareness of PTO rules does not constitute “unavoidable” delay)); Vincent v. Mossinghoff, 1985 U.S. Dist. LEXIS 23119, 13, 230 U.S.P.Q. (BNA) 621 (D.D.C. 1985) (Plaintiffs, through their counsel’s actions, or their own must be held responsible for having noted the MPEP section and Official Gazette notices expressly stating that the certified mailing procedures outlined in 37 CFR 1.8(a) do not apply to continuation applications.) (Emphasis added).

Petitioner must act as a reasonable and prudent person in relation to his most important business. Upon obtaining the patent, a reasonable and prudent person, in relation to his most important business, would become familiar with the legal requirements of that business, in this case, the requirement to pay maintenance fees. In addition, a reasonable and prudent individual would read the patent itself and thereby become aware of the need to pay maintenance fees and the fact that such fee amounts are sometimes changed by law or regulation.

⁵Congress expressly conditioned §§ 133 and 151 [of the United States Code] on a specific type of notice, while no such notice requirements are written into § 41(c) . . . [T]he Commissioner’s no timely-notice interpretation.” Ray v. Comer, 1994 U.S. Dist. LEXIS 21478, 8-9 (1994), *aff’d on other grounds* Ray v. Lehman, 55 F.3d 606, 34 USPQ2d 1786 (Fed. Cir. 1995) (Citing

required to provide notice to applicant of the existence of maintenance fee requirements, such notice is provided by the patent itself.⁶

A reasonable and prudent person, aware of the existence of maintenance fees, would not rely on maintenance fee reminders or on memory to remind him or her when payments would fall due several years in the future. Instead, such an individual would implement a reliable and trustworthy tracking system to keep track of the relevant dates.⁷ The individual would also take steps to ensure that the patent information was correctly entered into the tracking system.

Application of the unavoidable standard to the present facts

In the instant petition, petitioner argues that the above-cited patent should be reinstated because the delay in paying the 7.5 year maintenance fee was the result of the failure of Mr. Andre Arff, the assignee at the time patent expired, to pay the maintenance fee. Petitioner establishes that it was Mr. Arff's responsibility to track and pay the maintenance fee for the subject patent. A statement from Mr. Arff indicates that he acknowledges his responsibility to track and pay the maintenance fee and that he did not pay the fee. Petitioner also maintains that severe illness contributed to the unavoidable delay in filing a grantable petition under 37 CFR 1.378(b).

Petitioner's argument has been considered, but is not entirely persuasive. Further to this point, Section 2590 of the *Manual of Patent Examining Procedure* (MPEP) provides that, among other requirements, a petition to accept late payment of a maintenance fee, where the delay was unavoidable, must include:

Rydeen v. Quigg, 748 F. Supp. 900, 905 (1990), Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc., 467 U.S. 837, 81 L. ed. 2d 694, 104 S. Ct. 2778 (1984)). "The Court concludes as it did in Rydeen, that as a constitutional matter, 'plaintiff was not entitled to any notice beyond publication of the statute.'" Id. at 3 (citing Rydeen v. Quigg, 748 F. Supp. at 906, Texaco v. Short, 454 U.S. 516, 536, 70 L. Ed. 2d 738, 102 S. Ct. 781 (1982)).

The Patent Office, as a courtesy tries to send maintenance fee reminders and notices of patent expiration to the address of record. However, the failure to receive the reminder notice, and the lack of knowledge of the requirement to pay the maintenance fee, will not shift the burden of monitoring the time for paying a maintenance fee from the patentee to the Office. See MPEP 2575, 2540, 2590. Petitioner does not have a right to a personalized notice that this patent will expire if a certain maintenance fee is not paid, as the publication of the statute was sufficient notice. See Rydeen v. Quigg, 748 F. Supp. 900, 907 (1990). the ultimate responsibility for keeping track of maintenance fee states lies with the patentee, not the USPTO. Since the mailing of Notices by the Office is completely discretionary and not a requirement imposed by Congress, accepting an argument that failure to receive a Notice is unavoidable delay would result in all delays being unavoidable should the Office discontinue the policy. All petitions could allege non-receipt of the reminder, and therefore all petitions could be granted. This was clearly not the intent of Congress in the creation of the unavoidable standard.

⁶See Ray v. Lehman, 55 F.3d 606, 610; 34 USPQ2d 1786, 1789 (Fed. Cir. 1995). The Letters of Patent contain a Maintenance Fee Notice that warns that the patent may be subject to maintenance fees if the application was filed on or after December 12, 1980. While it is unclear as to who was and is in actual possession of the patent, petitioner's failure to read the Notice does not vitiate the Notice, nor does the delay resulting from such failure to read the Notice establish unavoidable delay.

⁷ 37 CFR 1.378(b)(3) precludes acceptance of a late maintenance fee for a patent unless a petitioner can demonstrate that steps were in place to monitor the maintenance fee. The federal Circuit has specifically upheld the validity of this regulation. Ray v. Lehman, 55 F.3d 606, 609; 34 USPQ2d (BNA) 1786 (Fed.Cir. 1995). In Ray v. Lehman, petitioner claimed that he had not known of the existence of the maintenance fees and therefore had no steps in place to pay such fees. The petitioner therefore argues that the PTO's regulation, 37 CFR 1.37(b)(3), supra, arguing that it 'creates a burden that goes well beyond what is reasonably prudent.' We disagree, The PTO's regulation merely sets forth how one is to prove that he was reasonably prudent, i.e., by showing what steps he took to ensure that the maintenance fee would be timely paid, and the steps taken in seeking to reinstate the patent. We do not see these requirements additional to proving unavoidable delay, but as the very elements of unavoidable delay." Id.

(C) a showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent.

The required showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly. Furthermore, an adequate showing requires a statement by all persons with direct knowledge of the cause of delay, setting forth the facts as they know them. Copies of all documentary evidence referred to in a statement should be furnished as exhibits to the statement.

As the crux of petitioner's arguments rest on the failure of Mr. Arff to pay the 7.5-year maintenance fee, it necessary for petitioner to establish that the delay of Mr. Arff was unavoidable. Accordingly, petitioner must provide a statement from Mr. Arff explaining the failures that contributed to the non-payment of the 7.5-year maintenance fee. In so doing, the statement of Mr. Arff should affirmatively identify the error that led to the non-payment of the maintenance fee.

Further, petitioner has not established that Mr. Arff had steps that were in place to ensure that the maintenance fee was timely paid. This showing would include an explanation of who was responsible for paying tracking and paying the maintenance fee and the method this person, or entity, used for tracking the maintenance fee.

In general, absent evidence that the agent acted to deceive the client, the patent owner is bound by the actions or inactions of its duly authorized and voluntarily chosen representatives. Specifically, the patent owners delay caused by the mistake or negligence of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 USC 133. Thus, petitioner must establish, through statements and documentary evidence, that Mr. Arff, as petitioner's duly authorized representative, acted willfully to deceive the patent owner such that the 7.5 year maintenance fee would not be timely paid.

Petitioner is cautioned that a petition under 37 CFR 1.378(b) will not be considered grantable where petitioner cannot establish that the delay of the person responsible for tracking and paying the maintenance fee was unavoidable. In other words, it is not sufficient for petitioner to state that petitioner does not know how Mr. Arff failed to pay the maintenance fee. Petitioner must establish that the entire delay in paying the maintenance fee was unavoidable. It does not appear that this can be accomplished without an understanding of the error in Mr. Arff's tracking system that resulted in the non-payment of the maintenance fee and the system he had in place for tracking and paying the maintenance fee.

Petitioner's Current Options

I. Petitioner may file a request for reconsideration.

If reconsideration of this decision is desired, a petition for reconsideration must be filed within TWO (2) MONTHS from the mail date of this decision.⁸ The petition for reconsideration should be titled "Petition for Reconsideration under 37 CFR 1.378(b)." Any petition for reconsideration for this decision must be accompanied by a non-refundable petition fee of \$400.00 as set forth in 37 CFR 1.17(h).

A reasonable and prudent person would not rely on maintenance fee reminders from the Office for two reasons. First, the Office has indicated that such reminders are a mere courtesy and has reserved the right to discontinue such reminders at any time. second, such reminders may be lost in the mail. A reasonable and prudent person, in regard to his most important business would not rely solely on reminders that the Office may or may not send which may or may not be lost in the mail.

⁸No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). This is not a final agency action within the meaning of 5 U.S.C. § 704.

After a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner. It is, therefore, extremely important that petitioner supply any and all relevant information and documentation with the request for reconsideration. The Commissioner's decision will be based solely on the administrative record in existence. Petitioner should remember that is not enough that the delay was unavoidable; petitioner must prove that the delay was unavoidable. A petition will not be granted if petitioner provides insufficient evidence "to show" that the delay was unavoidable. If a request for reconsideration is filed, it must establish that the entire delay in the submission of the maintenance fee was unavoidable.

II. Petitioner may request a refund of the maintenance fee and surcharge which accompanied the petition.

Petitioner may request a refund of the maintenance fee and surcharge by writing to the Office of Finance, Refund Section. A copy of this decision should accompany petitioner's request.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patent
Mail Stop Petitions
Box 1450
Alexandria, VA 22313-1460

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petition Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
D1W Mar-12

ANTHONY J IRELAND
1303 MAINE AVE
LYNN HAVEN FL 32444

MAILED

MAR 13 2012

OFFICE OF PETITIONS

Patent Number: 6,275,739 :
Issue Date: 08/14/2001 :
Application Number: 09/170,577 : DECISION ON PETITION
Filing Date: 10/13/1998 :
For: ATTACHED LOGIC MODULE :
TECHNIQUE FOR CONTROL AND :
MAINTENANCE IN A DISTRIBUTED :
AND NETWORKED CONTROL SYSTEM :

This is a decision on the petition under 37 CFR 1.378(c)¹ filed on January 26, 2012 (certificate of mailing date January 23, 2012).

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this 2-month time limit can be granted under 37 CFR 1.136(a) or (b). Any such petition for reconsideration must be accompanied by the petition fee of \$400.00 as set forth in 37 CFR 1.17(h). The petition for reconsideration should include an exhaustive attempt to provide the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

¹ 37 CFR 1.378(c) provides that a petition to accept an unintentionally delayed payment of a maintenance fee must be filed within twenty-four months of the six-month grace period provided in § 1.362(e) and must include:

- (1) The required maintenance fee set forth in § 1.20(e) through (g);
- (2) The surcharge set forth in § 1.20(I)(2); and
- (3) A statement that the delay in payment of the maintenance fee was unintentional.

By mail: Mail Stop Petition
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

Patent No. 6,275,739

3

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

A reply may also be filed via EFS-Web.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3231.



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions



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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

FOLEY & LARDNER
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3000 K STREET NW SUITE 500
PO BOX 25696
WASHINGTON DC 20007-8696

MAILED

JAN 17 2012

OFFICE OF PETITIONS

In re Patent No. 6,194,187 :
Miyazono et al. :
Issue Date: February 27, 2001 :
Application No. 09/171,410 : ON PETITION
Filed: October 19, 1998 :
Attorney Docket No. 049441/0117 :

This is a decision on the "PETITION UNDER 37 C.F.R. § 1.182 TO WITHDRAW A STATUTORY DISCLAIMER" filed December 13, 2011, requesting that the statutory disclaimer filed October 11, 2011 in the above-identified patent be withdrawn.

The petition is **DISMISSED** to the extent that the Terminal Disclaimer filed October 11, 2011 will not be withdrawn.

Any request for reconsideration must be filed within TWO (2) MONTHS. This 2-month period is governed by 37 CFR 1.181(f) and is not extendable under 37 CFR 1.136.

Pursuant to 37 C.F.R. 1.321(a), the assignee of the entire interest in the above-identified patent filed a statutory disclaimer, disclaiming the entire term of all claims in the above-identified patent. This terminal disclaimer included the required fee and was signed by patent attorney Stephen A. Bent on behalf of assignee JAPANESE FOUNDATION FOR CANCER RESEARCH (whose assignment is recorded at Reel/Frame: 009851/0438). Although the PALM records of the Office do not list him as an attorney of record, a review of the paper file reveals that attorney Bent was appointed attorney of record on filing of this application. There is no indication that the power of attorney

was revoked or withdrawn. Thus, attorney Bent appears to be a proper party to file the statutory disclaimer.

The mechanisms to correct a patent - Certificate of Correction (35 U.S.C. 255), reissue (35 U.S.C. 251), and re-examination (35 U.S.C. 305) - are not available to withdraw or otherwise nullify the effect of a recorded terminal disclaimer. As a general principle, public policy does not favour the restoration to the patent owner of something that has been freely dedicated to the public, particularly where the public interest is not protected in some manner - e.g., intervening rights in the case of a reissue patent. See, e.g., Altoona Publix Theatres v. American Tri-Ergon Corp., 294 U.S. 477, 24 USPQ 308 (1935).

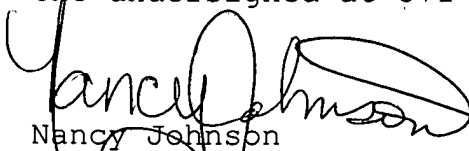
Further, the policy of the Office is well-established. The USPTO will not grant a request to withdraw or amend a recorded terminal disclaimer in an issued patent on the grounds that the rules of practice and 35 U.S.C. 253 do not include a mechanism for withdrawal or amendment of such a terminal disclaimer. See MPEP 1490; Bayer AG v. Carlsbad Technology Inc., 298 F.3d 1377, 64 USPQ 2d 1045, 1048-49 (CAFC 2002).

The Terminal Disclaimer filed October 11, 2011 became part of the record on filing on October 11, 2011. This is not the unhappy circumstance where a terminal disclaimer is filed in error prior to the grant of the patent. By filing a proper statutory disclaimer under 1.321(a) on that date, the patent owner freely dedicated to the public the entire term of all claims in the already issued above-identified patent. The fact that the Office has received but not fully processed this Terminal Disclaimer does not alter this conclusion.

Withdrawal or nullification of the Terminal Disclaimer filed October 11, 2011 from the application record is inappropriate.

Receipt of the \$400 petition fee is acknowledged.

Telephone inquiries concerning this decision may be directed to the undersigned at 571-272-3219.


Nancy Johnson
Senior Petitions Attorney
Office of Petitions



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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PEPPER HAMILTON LLP
ONE MELLON CENTER, 50TH FLOOR
500 GRANT STREET
PITTSBURGH PA 15219

MAILED

OCT 20 2011

OFFICE OF PETITIONS

In re Application of
Rand W. Mueller et al.
Application No. 09/172,446
Filed: October 14, 1998
Attorney Docket No. **032-068**

NOTICE

This is a notice regarding your request filed September 22, 2011, for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Mr. Frank Chau appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If, Mr. Frank Chau desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to Mr. Frank Chau, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-4584.

Joanne Burke
Petitions Examiner
Office of Petitions

cc: F. Chau & Associates, LLC
130 Woodbury Road
Woodbury, New York 11797



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No.	5977361	:
Issue Date:	November 2, 1999	:
Application No.	09172497	:DECISION GRANTING PETITION
Filed:	October 14, 1998	:UNDER 37 CFR 1.378(c)
Attorney Docket No.	101930-100	:

This is a decision on the electronic petition, filed February 24, 2012, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 24, 2012. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5,977,361	1999-11-02	09/172,497	1998-10-14	YU 904 (OCR 904 US01)

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input checked="" type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Rivka D. Monheit/	Date (YYYY-MM-DD)	2012-02-24
Name	Rivka D. Monheit	Registration Number	48731
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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SEYFARTH SHAW LLP
WORLD TRADE CENTER EAST
TWO SEAPORT LANE, SUITE 300
BOSTON MA 02210-2028

MAILED
NOV 21 2011
OFFICE OF PETITIONS

In re Patent No. 6,228,074 :
Issue Date: 05/08/2001 :
Application Number: 09/173,422 : DECISION ON PETITION
Filing Date: 10/15/1998 :
For: MULTIPLE PULSE PHOTO- :
EPILATOR :

This is a decision on the petition filed on November 8, 2011, under 37 CFR § 1.378(b) to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is dismissed.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this 2-month time limit can be granted under 37 CFR 1.136(a) or (b). Any such petition for reconsideration must be accompanied by the petition fee of \$400.00 as set forth in 37 CFR 1.17(f). The petition for reconsideration should include an exhaustive attempt to provide the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

The patent issued May 8, 2001. The first maintenance fee was timely paid. The second maintenance fee could have been paid from May 8 through November 10, 2008, or, with a surcharge during the period from November 11, 2008, through May 8, 2009.

Accordingly, the patent expired at midnight May 8, 2009, for failure to timely submit the maintenance fee.

Petitioner states that the "the expiration of the '074 patent for failure to pay the 7.5 year maintenance fee was unavoidable and unintentional". In support, petitioners have provided declarations from the inventor, his counsel, and a docketing administrator.

Petitioner, inventor Stephen Almeida, states in his declaration, in pertinent part:

4. I retained, Attorney John C. Serio, on or about October 1998, to draft and file the application that matured into the '074 patent on or about May 8, 2001;

5. On or about October 24, 2006 I sent an email to Attorney John Serio, of Brown Rudnick, asking how maintenance fees for my issued '074 patent would be paid; (attachment A)

6. In a reply to my email of October 24, 2006, Attorney Serio indicated that Brown Rudnick would pay these fees as they became due; (attachment A)

7. On or about May 15, 2007, Attorney Serio informed me via email that he would be leaving Brown Rudnick to join Seyfarth Shaw LLP (Seyfarth Shaw). Attorney Serio indicated that I could either continue my relationship with Brown Rudnick or notify Attorney Sam Williams, of Brown Rudnick, to transfer my patent files to Seyfarth Shaw; (attachment B)

8. On or about May 16, 2007 I sent an email to Sam Williams requesting Brown Rudnick to transfer both my physical and electronic patent files to Seyfarth Shaw; (attachment C)

9. Based upon my transfer instructions, I expected that the files would be transferred to Seyfarth Shaw by Brown Rudnick;

10. I can state unequivocally that I did not intend the '074 patent to expire for failure to pay maintenance fees and that such failure was unintentional and unavoidable ...

Petitioner's counsel, registered patent practitioner John C. Serio, states in his declaration, in pertinent part:

7. On or about May 27, 2007, I accepted an offer to join my present firm, Seyfarth Shaw, in their Boston office to continue my practice in IP law;

8. I joined Seyfarth Shaw with several of my colleagues from the Boston office of Brown Rudnick;

9. In accordance with professional and ethical obligations, my colleagues and I requested that our clients instruct Brown Rudnick to transfer our client's physical and electronic files to our new firm, Seyfarth Shaw;

10. As a result of these transfer requests, Brown Rudnick transferred the physical files of our collective clients, these files amounted to the work product of several attorneys over the period of several decades and totaled in excess of 700 hundred active files and several thousand inactive files;

11. As a further result of these transfer requests, Brown Rudnick transferred the electronic files of our collective clients, these electronic files amounted to the work product of several attorneys over the period of several decades and the respective docketing records for this collective work;

12. To ensure the orderly transfer of these files, we hired our former docketing clerk, June Kaps, who had over seventeen years of experience in the area of administration, procedure and docketing in the patent and trademark field and who had worked with us at Brown Rudnick;

13. Ms. Kaps is very experienced in patent practice and procedure and understands the importance and issues in the docketing of patent applications and issued patents;

14. Ms. Kaps is experienced in the use of electronic and manual patent systems to ensure proper docketing notice to patent practitioners;

15. Immediately upon our arrival at Seyfarth Shaw, Ms. Kaps began the process of receiving and docketing the physical files sent to us by Brown Rudnick at the request of our respective clients;

16. Our former firm, Brown Rudnick, had a professional file room manager who was responsible for ensuring the transfer of our clients' files;

17. In order to ensure that the importance of our clients' matters were protected, we contracted with the patent docketing software company, CPI, to additionally have an electronic transfer of our clients' docket entries as requested by their transfer instructions;

18. We believed that the steps taken during the transfer of files had redundancy to ensure our important client matters would be protected in the form of not only the receipt of physical files, but the receipt of corresponding electronic docket entries.

19. On or about September 1, 2011, Ms. Kaps received an email from the docketing clerk at Brown Rudnick that contained a Patent Expiration Notice for U.S. Patent 6,595,986 "Expired Patent"). The expiration was based upon the failure to pay maintenance fees (Kaps dec., Attachment D).

20. The Expired Patent was a CIP application of the above-captioned patent ("Petition Patent") for a client, Stephen Almeida, who had requested that Brown Rudnick transfer its files to Seyfarth Shaw on or about May 16, 2007 (Kaps Decl., Attachment B);

21. Upon receiving this Expiration Notice, Ms. Kaps brought this notice to the undersigned's attention;

22. We conducted an investigation and found that we did not possess the physical file nor the electronic file associated with this patent and that the patent was therefore not entered into our docketing system;

23. Based upon the receipt of the Expiration Notice we immediately filed a petition, under 37 CFR 1.378 (c), which was granted;

24. Shortly after receipt of the Expiration Notice, the undersigned attorney, our file room manager (Edwin Colon), and Ms. Kaps diligently searched our file room for other patents related to our client's Expired Patent.

25. During the course of our investigation we discovered that the Petition Patent for this Expired Patent was also not in our physical presence or docketing system;

26. Upon inquiry to the USPTO PAIR system we discovered that the Petition Patent had also expired for failure to pay maintenance fees. As part of our investigation, we requested the file wrapper of the Petition Patent to see where the Notice of Expiration was sent;

27. As with the Expired Patent, the Expiration Notice was sent to our former firm Brown Rudnick on or about June 8, 2009, however, this notice was not forwarded to us, as had been the case of the Expired Patent (Kaps Decl., Attachment F);

28. A double-docketing system is maintained by the undersigned attorney. One system is maintained with the aid of a computer and the other is a manual system. Accordingly, because of the failure to receive the physical or electronic files, despite our client's instructions, neither of the two docket systems recorded the existence of the Expired Patent and its related Petition Patent.

29. Since the undersigned attorney never received the physical file and its electronic counterpart, I did not receive the patent maintenance fee reminder and the subsequent Notice of Patent Expiration. Thus, I had no notice of the fees that were due. Accordingly, it is submitted that any abandonment of this application was unintentional and unavoidable and it is respectfully requested that this Petition to Accept Unavoidably Delayed Payment of Maintenance Fee in an Expired Patent under 37 CFR 1.378(b) be granted.

Petitioners have also provided a declaration of Julie Kaps, docket administrator for Seyfarth Shaw, LLP, in which she states, in pertinent part:

8. In 2007 three attorneys from Brown Rudnick moved to the Boston law firm of Seyfarth Shaw to start an IP department.

9. Approximately two weeks before any of the three Brown Rudnick attorneys arrived at Seyfarth Shaw, I joined Seyfarth Shaw to oversee and effect availability of docketing resources in the Seyfarth Shaw Boston office;

10. Before the first attorney arrived, I made sure the Boston attorneys would have Computer Packages Inc. (CPI) docketing available;

11. Upon resignation from Brown Rudnick, the three attorneys received and provided me a hard copy docket printout for the next six months;

12. Physical files from Brown Rudnick arrived at Seyfarth Shaw in batches as clients authorized transfer;

13. As each physical file arrived at Seyfarth Shaw, I opened new client/matter numbers, organized files into a file room, prepared power of attorney forms, obtained signatures from clients, electronically filed Powers of Attorney and change of correspondence addresses with the U.S. Patent & Trademark Office, and checked for impending actions in those cases and against the hard copy docket received from Brown Rudnick;

14. Despite having engaged our docketing service provider, CPI, early in the process to provide an electronic records data dump from the Brown Rudnick database, it took several weeks to receive the Brown Rudnick data from CPI into Seyfarth Shaw's CPI electronic docketing system;

15. Once CPI electronic data was received and loaded onto Seyfarth Shaw's system and available in Boston, I cross-checked the Seyfarth Shaw electronic docket data against the hard copy data provided by Brown Rudnick. I updated Seyfarth Shaw's received CPI electronic docket and data with any changes/actions taken in the interim;

16. I further cross-checked the information in all active physical files against the received CPI electronic docket data, and changed Brown Rudnick case numbers to the new Seyfarth Shaw case numbers;

17. To my knowledge all physical files sent from Brown Rudnick and received at Seyfarth Shaw Boston were properly docketed on the Seyfarth Shaw CPI docketing system;

18. For a period of time, Brown Rudnick forwarded all mail and any U.S. Patent & Trademark Office correspondence they received for the three attorneys that joined Seyfarth Shaw;

19. On or about September 1, 2011, I received an email from an assistant at Brown Rudnick, containing a Patent Expiration Notice for U.S. Patent 6,595,986 ('986 Expired Patent). The expiration was based upon the failure to pay maintenance fees (Attachment D hereto).

20. The '986 Expired Patent was a Continuation-In-Part (CIP) application of the above captioned '074 patent for a client, Stephen Almeida (Brown Rudnick client number 21221), who had requested that Brown Rudnick transfer its files to Seyfarth Shaw on or about May 16, 2007 (Attachment C);

21. John Serio, Edwin Colon (of Seyfarth Shaw's Records Department) and I conducted a thorough investigation and found that we did not possess the physical file nor the electronic file associated with the '986 Expired Patent and that the patent was therefore not entered into our docketing system;

23. Upon inquiry to the USPTO PAIR system I discovered that the '074 Petition Patent had also expired for failure to pay maintenance fees. As part of our investigation, we requested the file wrapper for the '074 Petition Patent to see what address the Maintenance Fee Reminder and the Notice of Expiration were sent to; (Attachment E & F);

24. The notice for the '074 Petition Patent was sent to our former firm Brown Rudnick on or about June 8, 2009 (as with the '986 Expired Patent) and a previously sent Maintenance Fee Reminder was sent on or about November

17, 2008. However, neither the reminder nor the notice was forwarded to us, as had been the case of the '986 Expired Patent;

25. As part of our investigation I requested that CPI provide us with a list of the clients that were included in the data dump from Brown Rudnick in 2007;

26. Brown Rudnick case number 21221 was not in the data dump even though the client had requested that their information be transferred (Attachment G);

27. Physical files for Brown Rudnick case number 21221 were also apparently not received at Seyfarth Shaw during the transfer of files in 2007.

A petition to accept the delayed maintenance fee under 35 U.S.C. § 41(c) and 37 CFR 1.378(b) must be accompanied by (1) an adequate, verified showing that the delay was unavoidable, since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent, (2) payment of the appropriate maintenance fee, unless previously submitted, and (3) payment of the surcharge set forth in 37 CFR 1.20(i)(1).

This petition lacks requirement (1).

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.378(b)(3).

A late maintenance fee is considered under the same standard as that for reviving an abandoned application under 35 U.S.C. § 133 because 35 U.S.C. § 41(c)(1) uses identical language (i.e. "unavoidable delay").¹ Decisions reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable.² In this regard:

The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by

¹ Ray v. Lehman, 55 F.3d 606, 608-09, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995) (quoting In re Patent No. 4,409,763, 7 USPQ2d 1798, 1800 (Comm'r Pat. 1989)).

² Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used by prudent and careful men in relation to their most important business").

prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.³

The Director may accept late payment of the maintenance fee if the delay is shown to the satisfaction of the Director to have been "unavoidable".⁴ A patent owner's failure to pay a maintenance fee may be considered to have been "unavoidable" if the patent owner "exercised the due care of a reasonably prudent person."⁵ This determination is to be made on a "case-by-case basis, taking all the facts and circumstances into account."⁶ Unavoidable delay under 35 U.S.C. § 41(b) is measured by the same standard as that for reviving an abandoned application under 35 U.S.C. § 133.⁷ Under 35 U.S.C. § 133, the Director may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Director to have been "unavoidable". Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable.⁸ However, a petition to revive an application as unavoidably abandoned cannot be granted where a petitioner has failed to meet his or

³ In re Mattullath, 38 App. D.C. 497, 514-15 (1912) (quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

⁴ 35 U.S.C. § 41(c)(1).

⁵ Ray v. Lehman, 55 F.3d 606, 608-09 (Fed.Cir.), cert. denied, -- U.S. ---, 116 S.Ct. 304, L.Ed.2d 209 (1995).

⁶ Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982).

⁷ In re Patent No. 4,409,763, 7 USPQ2d 1798, 1800 (PTO Comm'r 1988).

⁸ Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913).

her burden of establishing the cause of the unavoidable delay.⁹ In view of In re Patent No. 4,409,763, this same standard will be applied to determine whether "unavoidable" delay within the meaning of 37 CFR 1.378(b) occurred.

This petition does not satisfy the requirement of 37 CFR 1.378(b)(3). The statements presented in the petition do not rise to the level of the showing required to establish unavoidable delay within the meaning of 37 CFR 1.378(b).

As 35 U.S.C. § 41(c) requires the payment of fees at specified intervals to maintain a patent in force, rather than some response to a specific action by the Office under 35 U.S.C. § 133, a reasonably prudent person in the exercise of due care and diligence would have taken steps to ensure the timely payment of such maintenance fees.¹⁰ That is, an adequate showing that the delay was "unavoidable" within the meaning of 35 U.S.C. § 41(c) and 37 CFR 1.378(b)(3) requires a showing of the steps taken to ensure the timely payment of the maintenance fees for this patent.¹¹

With regard to period (1), above, a delay resulting from an error (e.g., a docketing error) on the part of an employee in the performance of a clerical function may provide the basis for a showing of "unavoidable" delay, provided it is shown that:

(1) the error was the cause of the delay at issue;

(2) there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance;

(3) and the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care.¹²

An adequate showing requires:

(A) Statements by all persons with direct knowledge of the circumstances surrounding the delay, setting forth the facts as they know them.

⁹ Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

¹⁰ Ray, 55 F.3d at 609, 34 USPQ2d at 1788.

¹¹ Id.

¹² See MPEP 711.03(c)(III)(C)(2).

(B) Petitioner must supply a thorough explanation of the docketing and call-up system in use and must identify the type of records kept and the person responsible for the maintenance of the system. This showing must include copies of mail ledgers, docket sheets, filewrappers and such other records as may exist which would substantiate an error in docketing, and include an indication as to why the system failed to provide adequate notice that a reply was due.

(C) Petitioner must supply information regarding the training provided to the personnel responsible for the docketing error, degree of supervision of their work, examples of other work functions carried out, and checks on the described work which were used to assure proper execution of assigned tasks.

In essence, petitioners assert a docketing error in the transfer of the maintenance fee tracking information from the docketing system of the prior firm, Brown Rudnick Berlack Israels LLP (hereinafter "Brown Rudnick"), to the docketing system of the current firm of Seyfarth Shaw, LLP (hereinafter "Seyfarth Shaw").

However, petitioners have not provided a sufficient showing of a docketing error. Petitioners allege, in the Kaps declaration, that the physical and electronic files for the subject patent was not received by Seyfarth Shaw from Brown Rudnick.¹³

If the error occurred because of a failure on the part of personnel at Brown Rudnick to transfer the subject data and physical patent files to the docketing system of Seyfarth Shaw, petitioners must identify the clerical employee(s) at Brown Rudnick who was responsible for transferring the electronic and physical data files. Petitioners must identify the error which led to the delay in payment of the maintenance fee, and explain why this error occurred. Statements by all persons with first-hand knowledge of the error which resulted in the subject patent not being docketed for payment of the second maintenance fee must be provided.

Put another way, petitioners must show that, at both Brown Rudnick and Seyfarth Shaw, there was in place a business routine for performing the clerical function of transferring the data from Brown Rudnick to Seyfarth that could reasonably be relied upon to avoid errors in its performance. Petitioners must identify the clerical error that was the cause of the delay at

¹³ Kaps decl. Paragraphs 26 & 27.

issue and explain how, despite the existence of business route for performing this clerical function that could reasonably be relied upon to avoid errors in its performance, said error nevertheless occurred. Furthermore, petitioners must supply a through explanation of the system in use with regard to the transfer of files from Brown Rudnick to Seyfarth Shaw. In essence, petitioners must provide evidence that a reliable system was in place for transferring this data. This showing must include copies of mail ledgers, docket sheets, filewrappers and such other records as may exist which would substantiate an error in docketing, and include an indication as to why the system failed to provide adequate notice that a reply was due.

Likewise, petitioners must show that the employees, at both Brown Rudnick and Seyfarth Shaw, were sufficiently trained and experienced with regard to the function and routine of the data transfer from Brown Rudnick to Seyfarth Shaw, and docketing at Seyfarth Shaw, that reliance upon such employees represented the exercise of due care. In this regard, petitioners must supply information regarding the training provided to the personnel responsible for the docketing error, degree of supervision of their work, examples of other work functions carried out, and checks on the described work which were used to assure proper execution of assigned tasks.

With regard to petitioner Almeida's assertion that he expected that the files would be transferred from Brown Rudnick to Seyfarth Shaw, while petitioner alleged chose to rely upon his registered patent practitioner ("Serio"), such reliance per se does not provide petitioner with a showing of unavoidable delay within the meaning of 37 CFR 1.378(b) and 35 U.S.C. § 41(c). Rather, such reliance merely shifts the focus of the inquiry from petitioner to whether the attorney or agent acted reasonably and prudently. As such, assuming that the agent had been so engaged, then it is incumbent upon petitioner to demonstrate, via a documented showing, that the attorney or agent had docketed this patent for the second maintenance fee payment in a reliable tracking system. If petitioner cannot establish that the attorney or agent had been so engaged, then petitioner will have to demonstrate what steps were established by petitioner to monitor and pay the maintenance fee.

In summary, the showing of record is inadequate to establish unavoidable delay. Petitioner has provided insufficient evidence to substantiate a claim of docketing error. Rather, the showing of record is that petitioners failed to properly transfer the docketing information from Brown Rudnick and/or docket the second

maintenance fee in a reliable tracking system at Seyfarth Shaw. As petitioner has not shown that it exercised the standard of care observed by a reasonable person in the conduct of his or her most important business, the petition will be dismissed.¹⁴

Receipt of the payment of \$400.00 is acknowledged. The surcharge due under § 1.20(i)(1) is \$700.00, and the second maintenance fee due (small entity) is \$1,425.00. The balance due of \$1,725.00 (1425 + 700 - 400) will be charged to counsel's deposit account.

Petitioner should note that if this petition is not renewed, or if renewed and not granted, then the maintenance fee and post-expiration surcharge are refundable. The \$400.00 petition fee for seeking reconsideration is not refundable. Any request for refund should be in writing to the address noted below.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

By FAX: (571) 273-8300
 Attn: Office of Petitions

By hand: Customer Service Window
 Mail Stop Petition
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

A reply may also be filed using the EFS-Web system of the USPTO.

Telephone inquiries should be directed to the undersigned at 571-272-3231.



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

¹⁴ See note 4, supra.



UNITED STATES PATENT AND TRADEMARK OFFICE

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MAILED
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OFFICE OF PETITIONS

In re Patent No. 6,228,074 :
Issued: 05/08/2001 :
Application No. 09/173,422 : REQUEST FOR INFORMATION
Filed: 10/15/1998 :
Atty Docket No. 55855.3 :

This is a decision on the request for reconsideration under 37 CFR 1.378(e), filed on January 19, 2012.

The petition is **dismissed**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. **No extension of this 2-month time limit can be granted under 37 CFR 1.136(a) or (b).** No further fee is due for seeking reconsideration.

The patent issued on May 8, 2001. The first maintenance fee was timely paid. The second maintenance fee could have been paid during the period from May 8 through November 10, 2008, or, with a surcharge, during the period from November 11, 2008, through May 8, 2009. The patent expired at midnight on May 8, 2009, 2005, for failure to timely pay the second maintenance fee.

On November 8, 2011, a petition under 37 CFR 1.378(b) was filed. On November 21, 2011, the petition was dismissed. On January 19, 2011, the present request under 37 CFR 1.378(e) was filed, accompanied by the required fee of \$400.00.

Petitioner stated that responsibility for tracking the due dates for the maintenance fees in this patent originally resided with the law firm of Brown Rudnick Berlack Israels LLP ("Brown Rundnick"). Petitioner's registered patent practitioner, John

Serio, states that he left Brown Rudnick and began to practice with the law firm of Seyfarth Shaw LLP ("Seyfarth Shaw"). Petitioner, inventor Stephen Almeida, states that he wished to continue having attorney Serio handle his patent matters, and sent a request on May 16, 2007, to Brown Rudnick, asking that his patent files be transferred to Seyfarth Shaw.

Petitioner has included a declaration from June E. Kaps, docketing administrator at Seyfarth Shaw. Ms. Kaps stated that she previously was employed as the docket administrator at Brown Rudnick.

Ms. Kaps declaration states, in pertinent part:

21. John Serio, Edwin Colon (of Seyfarth Shaw's Records Department) and I conducted a thorough investigation and found that we did not possess the physical file nor the electronic file associated with the '986 Expired Patent and that the patent was therefore not entered into our docketing system.

22. During the course of our investigation we discovered that the '074 parent patent ("'074 Petition Patent") for the '986 Expired Patent was also not in our physical presence or our electronic docketing system;

23. Upon inquiry to the USPTO PAIR system I discovered that the '074 Petition Patent had also expired for failure to pay maintenance fees. As part of our investigation, we requested the file wrapper for the '074 Petition Patent to see what address the Maintenance Fee Reminder and the Notice of Expiration were sent to; (Attachment E & F);

24. The notice for the '074 Petition Patent was sent to our former firm Brown Rudnick on or about June 8, 2009 (as with the '986 Expired Patent) and a previously sent Maintenance Fee Reminder was sent on or about November 17, 2008. However, neither the reminder nor the notice was forwarded to us, as had been the case of the '986 Expired Patent;

25. As part of our investigation I requested that CPI provide us with a list of the clients that were included in the data dump from Brown Rudnick in 2007;

26. Brown Rudnick case number 21221 was not in the data dump even though the client had requested that their information be transferred (Attachment G);

27. Physical files for Brown Rudnick case number 21221 were also apparently not received at Seyfarth Shaw during the transfer of files in 2007.

Petitioners further included a declaration of Keith Schultz, the Director of Information Services for Brown Rudnick. Mr. Schultz' declaration states, in pertinent part:

5. During the month of May 2007 and thereafter, I was involved in the transfer of files related to attorneys that had left Brown Rudnick to join the firm of Seyfarth Shaw (Seyfarth). I worked in conjunction with Deborah Hopkins and Betty McCorkle of Brown Rudnick and Seyfarth's docketing administrator, June Kaps, regarding the electronic transfer of files to Seyfarth.

7. As part of my responsibilities, I coordinated the transfer of electronic docketing information through our docketing software vendor CPI to facilitate the transfer of docketing information of those clients who requested the transfer of their files to Seyfarth.

8. As a result of these transfer requests, Brown Rudnick transferred the physical files of various clients, these files amounted to the work product of several attorneys over the period of several decades and totaled in excess of 700 hundred active files and several thousand inactive files;

9. As a further result of these transfer requests, Brown Rudnick transferred the electronic files of various clients, these electronic files amounted to the work product of several attorneys over the period of several decades and the respective docketing records for this collective work;

10. As part of this transfer process we received a request from Stephen Almeida, Brown Rudnick client number 21221 (Client), to transfer his physical and electronic files to Seyfarth;

11. Pursuant to this request we made arrangements to have the Client's physical files transferred. We

further made arrangements, in coordination with CPI, to transfer the Client's electronic docket entries on the CPI system to Seyfarth. The transfer of the electronic docket entries apparently only affected a transfer of selected Client files concerning matters 7 and 9 and not all Client matters, as the Client had instructed. During the course of Brown Rudnick's investigation, regarding the circumstances giving rise to the expiration of the Petition Patent, it was determined that the selected electronic files attempted to be transferred, matters 7 and 9, concerned non-patent matters for the Client, which contained no docket information;

12. Despite a diligent investigation, I am unsure why a request for the electronic transfer of docketing information for only selected files was sent to CPI, for the Client. Accordingly, it is submitted that any abandonment of this application was unintentional and unavoidable and it is respectfully requested that this Petition to Accept Unavoidably Delayed Payment of Maintenance Fee in an Expired Patent under 37 CFR 1.378 (b) be granted.

The Director may accept late payment of the maintenance fee if the delay is shown to the satisfaction of the Director to have been "unavoidable".¹ A patent owner's failure to pay a maintenance fee may be considered to have been "unavoidable" if the patent owner "exercised the due care of a reasonably prudent person."² This determination is to be made on a "case-by-case basis, taking all the facts and circumstances into account."³ Unavoidable delay under 35 U.S.C. § 41(b) is measured by the same standard as that for reviving an abandoned application under 35 U.S.C. § 133.⁴ Under 35 U.S.C. § 133, the Director may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Director to have been "unavoidable". Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable.⁵ However, a

¹ 35 U.S.C. § 41(c)(1).

² Ray v. Lehman, 55 F.3d 606, 608-09 (Fed.Cir.), cert. denied, -- U.S. ---, 116 S.Ct. 304, L.Ed.2d 209 (1995).

³ Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982).

⁴ In re Patent No. 4,409,763, 7 USPQ2d 1798, 1800 (PTO Comm'r 1988).

⁵ Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent

petition to revive an application as unavoidably abandoned cannot be granted where a petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay.⁶ In view of In re Patent No. 4,409,763,⁷ this same standard will be applied to determine whether "unavoidable" delay within the meaning of 37 CFR 1.378(b) occurred.

This petition does not satisfy the requirement of 37 CFR 1.378(b)(3). The statements presented in the petition fail to satisfy the showing required to establish unavoidable delay within the meaning of 37 CFR 1.378(b).

35 U.S.C. § 41(c)(1) does not require an affirmative finding that the delay was avoidable, but only an explanation as to why the petitioner has failed to carry his or her burden to establish that the delay was unavoidable.⁸ 35 U.S.C. § 133 does not require the Director to affirmatively find that the delay was avoidable, but only to explain why the applicant's petition was unavailing). Petitioner is reminded that it is the patentee's burden under the statutes and regulations to make a showing to the satisfaction of the Director that the delay in payment of a maintenance fee is unavoidable.⁹

As 35 USC § 41(b) requires the payment of fees at specified intervals to maintain a patent in force, rather than some response to a specific action by the Office under 35 USC § 133, a reasonably prudent person in the exercise of due care and diligence would have taken steps to ensure the timely payment of such maintenance fees.¹⁰ That is, an adequate showing that the delay in payment of the maintenance fee at issue was "unavoidable" within the meaning of 35 U.S.C. § 41(c) and 37 CFR 1.378(b)(3) requires a showing of the steps taken by the responsible party to ensure the timely payment of the second maintenance fee for this patent.¹¹

and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913).

⁶ Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

⁷ 7 USPQ2d 1798, 1800 (Comm'r Pat. 1988), aff'd sub nom. Rydeen v. Quigg, 748 937 F.2d 623 (Fed. Cir. 1991) (table), cert. denied, 502 U.S. 1075 (1992).

⁸ See Commissariat A. L'Energie Atomique v. Watson, 274 F.2d 594, 597, 124 USPQ 126, 128 (D.C. Cir. 1960).

⁹ See Rydeen v. Quigg, 748 F. Supp. 900, 16 USPQ2d 1876 (D.D.C. 1990), aff'd 937 F.2d 623 (Fed. Cir. 1991) (table), cert. denied, 502 U.S. 1075 (1992); Ray v. Lehman, supra.

¹⁰ Ray, 55 F.3d at 609, 34 USPQ2d at 1788.

¹¹ Id.

Further, with regard to petitioner's allegation of a docketing error, a delay resulting from an error (e.g., a docketing error) on the part of an employee in the performance of a clerical function may provide the basis for a showing of "unavoidable" delay, provided it is shown that:

(1) the error was the cause of the delay at issue;

(2) there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance;

(3) and the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care.¹²

An adequate showing requires:

(A) Statements by all persons with direct knowledge of the circumstances surrounding the delay, setting forth the facts as they know them.

(B) Petitioner must supply a thorough explanation of the docketing and call-up system in use and must identify the type of records kept and the person responsible for the maintenance of the system. This showing must include copies of mail ledgers, docket sheets, filewrappers and such other records as may exist which would substantiate an error in docketing, and include an indication as to why the system failed to provide adequate notice that a reply was due.

(C) Petitioner must supply information regarding the training provided to the personnel responsible for the docketing error, degree of supervision of their work, examples of other work functions carried out, and checks on the described work which were used to assure proper execution of assigned tasks.

The present petition lacks the showing required by (1), (2), and (3) above.

It is noted that the declaration of Mark S. Leonardo, partner at Brown Rudnick, states that Keith Schultz "worked under our file room manager, Deborah Hopkins, who at the time of the Seyfarth

¹² See MPEP 711.03(c) (III) (C) (2).

file transfer was our professional file room manager who was responsible for matters concerning our clients' files." (Paragraph 13 of the Leonardo declaration). Further, the declaration of Keith Schultz states that Ms. Hopkins and Betty McCorkle of Brown Rudnick worked on the transfer of electronic files.

Petitioners have not provided affidavits or statements of facts from Deborah Hopkins and Betty McCorkle setting forth the facts as they know them, and explaining their role in docketing and tracking of the maintenance fee for the subject patent at Brown Rudnick, and their involvement in the transfer of the patent files to Seyfarth Shaw. Furthermore, if Ms. Hopkins and Ms. McCorkle may have knowledge of the docketing error, petitioner must supply information regarding the training provided to the personnel responsible for the docketing error, degree of supervision of their work, examples of other work functions carried out, and checks on the described work which were used to assure proper execution of assigned tasks.

Additionally, as petitioners state that electronic files were transferred from CPI, petitioners should also provide the above-referenced information for any and all CPI personnel involved.

At present, the showing of record suggests that the subject patent was not docketed for payment of the second maintenance fee at Brown Rudnick, in that no docket records for the subject patent were among those transferred to Seyfarth Shaw. If the patent was never entered into the Brown Rudnick database, it appears it would not have been docketed at Seyfarth Shaw, and therefore would not have been docketed at all for tracking and payment of the second maintenance fee. If this is the case, petitioners must provide a showing that the error which resulted in the failure to docket this patent for payment of the maintenance fees was, in fact, unavoidable.

It is additionally noted that petitioners state that Patent No. 6,595,986 ("the '986 patent") was also among those patents for which responsibility for tracking and payment of the maintenance fees was to be transferred from Brown Rudnick to Seyfarth Shaw, but that this patent was also found not to have been entered into the Seyfarth Shaw database after the transfer. The fact that the subject patent is not the only one that was apparently not docketed suggest that there is a question as to whether these patents may not have been docketed for payment of maintenance fees due to flaws in petitioner's docketing system, rather than a

docketing error on the part of a reliable and trusted employee in the performance of a clerical function.

It is imperative that petitioner provide as complete, thorough, and detailed a showing as is possible that the delay was caused by a docketing error. Any renewed petition must explain the docketing error that resulted in the delay in payment of the maintenance fee, and must provide a showing that (1) the docketing error was the cause of the delay at issue; (2) there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance; (3) and the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care.

As the showing of record does not rise to the level of unavoidable delay, the petition must be dismissed. As petitioner has not shown that he exercised the standard of care observed by a reasonable person in the conduct of his or her most important business, the petition will be dismissed.¹³

Petitioner should note that if this petition is not renewed, or if renewed and not granted, then the maintenance fee and post-expiration surcharge are refundable.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

By FAX: (571) 273-8300
 Attn: Office of Petitions

By hand: Customer Service Window
 Mail Stop Petition
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

¹³ See note 4, supra.

Patent No. 6,228,074

9

Telephone inquiries should be directed to the undersigned at 571-272-3231.

A handwritten signature in black ink, appearing to read "D. Wood", written in a cursive style.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

MAR 21 2011

OFFICE OF PETITIONS

CHARLES MCCLOSKEY
13321 N. Outer 40 Rd. Ste. 100
Town & Country, MO 63017

In re Patent No. 6,308,610 :
Issue Date: October 30, 2001 :
Application No. 09/173,423 : LETTER
Filed: October 15, 1998 :
For: LIQUID CANNON HAVING TRUNNION :
ASSEMBLY :
Patentee: Stewart :

This letter is in response to the petition filed May 24, 2010 under 37 CR 1.378(e) in response to the letter mailed April 28, 2010.

A decision on the merits of the petition under 37 CFR 1.378(e) cannot be rendered prior to submission of the 11.5 year maintenance fee. The current maintenance fee schedule indicates that the 11.5 year large entity maintenance fee is currently \$4,110.00 and that the 11.5 year small entity maintenance fee is currently \$2,055.00.

Any request for reconsideration of this decision must be submitted within **ONE MONTH** of the mail date indicated above and must include the 11.5 year maintenance fee. The time period for reply **is not** subject to extension under 37 CFR 1.136(a).

Further correspondence with respect to this matter should be addressed as follows:

By mail: **Mail Stop Petition**
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300

By hand delivery: U.S. Patent and Trademark Office
Customer Window, **Mail Stop Petition**
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at 571-272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CHARLES MCCLOSKEY
13321 N. Outer 40 Rd. Ste. 100
Town & Country, MO 63017

In re Patent No. 6,308,610
Issue Date: October 30, 2001
Application No. 09/173,423
Filed: October 15, 1998
For: LIQUID CANNON HAVING
TRUNNION ASSEMBLY

:
:
: DECISION
:
:
:

MAILED
APR 19 2011
OFFICE OF PETITIONS

This is a decision on the petition under 37 CFR 1.378(e), filed March 25, 2011, to accept an unavoidably delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The patent issued October 30, 2001. Accordingly, the first maintenance fee due could have been paid during the period from October 30, 2004 through April 30, 2005, or with a surcharge during the period from May 1, 2005 through October 30, 2005. This patent expired on October 30, 2005.

Petitioner has demonstrated to the satisfaction of the Director that the delay in timely paying the maintenance fee was unavoidable.

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, practitioner's signature appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If practitioner desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to practitioner, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

The power of attorney filed May 22, 2009 has not been entered into the record because it is signed by one of two joint inventors and thus fails to comply with 37 CFR 1.33(b)(4). Further, the change of correspondence address filed July 26, 2010 has not been entered into the record because it is signed by a practitioner not of record.

The 3.5 year and 7.5 year maintenance fees are hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this matter may be directed to the undersigned at 571-272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**BLYNN L SHIDELER
WEBB ZIESENHEIM BRUENING
LOGSDON ORKIN & HANSON
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH PA 15219-1818**

MAILED
SEP 26 2011
OFFICE OF PETITIONS

In re Patent No. 6,117,148
Issue Date: September 12, 2000
Application No. 09/173,867
Filed: October 16, 1998
Attorney Docket No. 1431-981573

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:
:
:

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to Diane Goodwyn at (571) 272-6735.

Ramesh Krishnamurthy
for Thuman K. Page
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

THOMAS J DODD
8122 DATAPOINT DR
SUITE 1250
SAN ANTONIO TX 78229

MAILED

DEC 27 2011

OFFICE OF PETITIONS

In re Application of :
Kochat Haridas et al. :
Application No. 09/175,508 :
Filed: October 20, 1998 :
Attorney Docket No. **X-0082** :

NOTICE

This is a notice regarding your request filed December 1, 2011, for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Scott A. Whitaker appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If, Scott A. Whitaker desires to be acknowledged as the attorney of record in this file, the appropriate power of attorney documents must be submitted.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-4584.

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Barbara C. McCurdy
Finnegan, Henderson, Farabow,
Garrett & Dunner, L.L.P.
1300 I Street, N.W. Suite 700
Washington DC 20005-3315

MAILED
JAN 10 2012
OFFICE OF PETITIONS

In re Application of	:	
Slater	:	
Application No. 09/177,502	:	
Filed: October 23, 1998	:	DECISION
U.S. Patent No. 7,962,190	:	
Issue Date: June 14, 2011	:	
Attorney Docket No. SYM-161	:	
For: Bipolar Endoscopic Surgical Scissor	:	
Blades and Instrument Incorporating the Same	:	

The above-identified application has been forwarded to the undersigned for consideration on a petition for patent term extension entitled "Petition for Patent Term Adjustment Due to Examination Delay under 37 CFR 1.181" received on July 26, 2011.

The petition is granted.

The Notice of Allowance and Fee(s) Due mailed on July 11, 2011 improperly stated that the Patent Term Extension is 1516 days. The Office electronic records have been corrected to reflect that the patent term extension is 1575 days.

After mailing of this decision, the above-identified application will be forwarded to Office of Publications for further processing.

Petitioner's deposit account has not been charged a petition fee.

Inquiries regarding this communication should be directed to the undersigned at (571) 272-7709.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy



UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 5902237 :
Issue Date: May 11, 1999 :
Application No. 09178874 :DECISION GRANTING PETITION
Filed: October 26, 1998 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 3048-22 :

This is a decision on the electronic petition, filed August 9, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 9, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5,902,237	1999-05-11	09/178,874	1998-10-26	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input checked="" type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Justin T. Arbes/	Date (YYYY-MM-DD)	2011-08-09
Name	Justin T. Arbes	Registration Number	62788
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6376596 :
Issue Date: April 23, 2002 :
Application No. 09180509 :DECISION GRANTING PETITION
Filed: November 12, 1998 :UNDER 37 CFR 1.378(c)
Attorney Docket No. FA0704A :

This is a decision on the electronic petition, filed March 22, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 22, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,376,596	2002-04-23	09/180,509	1998-11-12	FA0704A

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input checked="" type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/BRIAN J MYERS/	Date (YYYY-MM-DD)	2011-03-22
Name	BRIAN J MYERS	Registration Number	58281
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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P.O. Box 1450
Alexandria, VA 22313-1450
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DAVID NEWMAN CHARTERED
CENTENNIAL SQUARE
P.O. BOX 2728
LA PLATA, MD 20646-2728

MAILED

SEP 19 2011

OFFICE OF PETITIONS

In re Patent No. 6,393,049 :
Issue Date: May 21, 2002 :
Application No. 09/182,054 :
Filed: October 29, 1998 :
Patentee(s): Sorin Davidovici, et. al. :

ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed on August 22, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent.

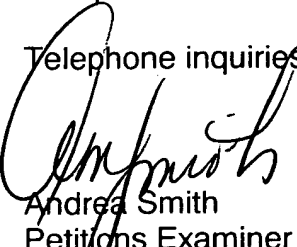
Since petitioner has demonstrated to the satisfaction of the Commissioner that the delay in timely paying the maintenance fee was unintentional, the petition under 37 CFR 1.378(c) is hereby **GRANTED**.

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

A courtesy copy of this decision is being mailed to the address given in the present petition.

This patented file is being forwarded to Files Repository.

Telephone inquiries should be directed to the undersigned at (571) 272-3226.


Andrea Smith
Petitions Examiner
Office of Petitions

cc: Mimi Hsu
198 Brighton Avenue
Long Branch, NJ 07740



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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ELMAN TECHNOLOGY LAW, P.C.
P.O. BOX 209
SWARTHMORE PA 19081

MAILED

JAN 31 2011

OFFICE OF PETITIONS

In re Patent No. 6,073,409 :
Issued: June 13, 2000 :
Application No. 09/182,793 : DECISION ON PETITION
Filed: October 30, 1998 :
For: FLOORING CONSTRUCTION WITH :
CAPACITY FOR DEFLEXURE :
ADJUSTMENT :

This is a decision on the petition filed on August 17, 2010, under 37 CFR § 1.378(b) to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **dismissed**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this 2-month time limit can be granted under 37 CFR 1.136(a) or (b). Any such petition for reconsideration must be accompanied by the petition fee of \$400.00 as set forth in 37 CFR 1.17(f). The petition for reconsideration should include an exhaustive attempt to provide the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

The patent issued June 13, 2000. The second maintenance fee could have been paid from June 13, 2007, through December 12, 2007, or, with a surcharge during the period from December 13, 2007 through June 13, 2008. Accordingly, the patent expired at midnight June 13, 2008, for failure to timely submit the second maintenance fee.

Applicant states that, "The above-identified patent was exclusively licensed to Action Floor Systems, LLC, of Madison, WI, beginning on April 15, 1999, when the above-identified patent was pending (U.S. Patent Application No. 09/182,793). This

exclusive license covered the entire United States, except for an area comprising certain sections of Pennsylvania, New Jersey and Delaware. Payments from this license averaged \$60, 000 per year, and were made regularly through 2009."

Applicant further states that "Upon the issuance of the above-identified patent on July 19, 2000, I received a letter from my Patent Attorney, Mr. Anthony J. McNulty. A copy of this letter is attached hereto as Exhibit A. This letter included a passage stating that:

You will be required to pay maintenance fees at the following intervals:

After 3 years and six months;
After 7 years and six months;
After 11 years and six months;

This quoted passage was ambiguous to me. Nothing in this letter notified me of the actual dates when maintenance fees would be due. The only dates specifically stated in the letter were the filing date of the patent application of October 30, 1998 and the expiration date of October 30, 2018. Nothing in the letter connected these application and expiration dates to the "intervals" quoted above. I was unsure when each of the maintenance fees would actually be due. I surmised that the second maintenance fee would be due at least ten years from an unknown date."

BRIEF SUMMARY OF EVENTS:

1. The patent issued on June 13, 2000.
2. Letter mailed from Attorney Mr. Anthony J. McNulty, notifying applicant of the intervals for paying the required first, second and third maintenance fees.
3. On or about January 14, 2004, Mr. McNulty notified applicant of the first maintenance fee payment being due.
4. On or about January 26, 2004, first maintenance fee payment mailed.
5. On or about March 15, 2004, received letter from Mr. McNulty which included copy of maintenance fee statement indicating that the first maintenance fee was paid.
6. On or about March 7, 2005, was informed that Mr. McNulty has passed away and advised applicant to pick up his files.
7. In early June 2007, received by postal mail a paper entitled Patent Cancellation Notice from the United States Patent Renewal Service.

8. On or about June 17, 2007, mailed the Patent Cancellation Notice and submitted payment of \$175.00.
9. Received last royalty payment for 2009, on or about January 22, 2010 issued January 18, 2010, by Action Floor System, LLC.
10. On June 14, 2010, applicant sent e-mail to Mr. Gary Brown at Action Floor Systems, LLC, the license asking to be updated on product sales covered by the licensed above-identified patent.
11. Re-sent e-mail to Mr. Brown on June 17, 2010 after no reply.
12. On or about June 22, 2010, Mr. Brown notified applicant that Action Floor System, LLC would no longer pay any royalties, including any payments for 2010 because the license was no longer in force, because the second maintenance fee had not been paid.
13. Engaged Elman Technology Law, P.C. as patent attorney.
14. On or about July 16, 2010 reviewed the file history, as obtained from the USPTO, including the maintenance fee history for the above-identified patent.
15. On August 17, 2010, the above petition was filed.

A petition to accept the delayed payment of a maintenance fee under 35 USC 41(c) and 37 CFR 1.378(b) must be accompanied by (1) an adequate, verified showing that the delay was unavoidable, since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent, (2) payment of the appropriate maintenance fee, unless previously submitted, and (3) payment of the surcharge set forth in 37 CFR 1.20(i)(1).

This petition lacks item (1) above.

The Commissioner may accept late payment of the maintenance fee if the delay is shown to the satisfaction of the Director to have been "unavoidable".¹

A late maintenance fee is considered under the same standard as that for reviving an abandoned application under 35 U.S.C. § 133 because 35 U.S.C. § 41(c)(1) uses identical language (i.e. "unavoidable delay").² Decisions reviving abandoned applications

¹ 35 U.S.C. § 41(c)(1).

² Ray v. Lehman, 55 F.3d 606, 608-09, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995) (quoting In re Patent No. 4,409,763, 7 USPQ2d 1798, 1800 (Comm'r Pat. 1989)).

have adopted the reasonably prudent person standard in determining if the delay was unavoidable.³ In this regard:

The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.⁴

As 35 U.S.C. § 41(c) requires the payment of fees at specified intervals to maintain a patent in force, rather than some response to a specific action by the Office under 35 U.S.C. § 133, a reasonably prudent person in the exercise of due care and diligence would have taken steps to ensure the timely payment of such maintenance fees.⁵ That is, an adequate showing that the delay was "unavoidable" within the meaning of 35 U.S.C. § 41(c) and 37 CFR 1.378(b)(3) requires a showing of the steps taken to ensure the timely payment of the maintenance fees for this patent.⁶

In the present case, patentee seems to assert that the unavoidable delay in paying the second maintenance fee was due to the lack of knowledge of the procedure and the date the maintenance fee payment was due.

³ Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used by prudent and careful men in relation to their most important business").

⁴ In re Mattullath, 38 App. D.C. 497, 514-15 (1912) (quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

⁵ Ray, 55 F.3d at 609, 34 USPQ2d at 1788.

⁶ Id.

The record fails to disclose that the patentee took reasonable steps to ensure timely payment of the maintenance fee. In fact, the record indicates that no steps were taken by patentee except (the mailing of the Patent Cancellation Notice with the \$175.00 payment on June 17, 2007), to ensure timely payment of the maintenance fee. Since no steps were taken by patentee, 37 CFR 1.378(b) precludes acceptance of the delayed payment of the maintenance fee. While it is unfortunate that patentee believed, in error, that the \$175.00 payment did constitute payment of the second maintenance fee, the showing of record remains that the second maintenance fee payment was not timely made.

Further, a patentee's lack of knowledge of the need to pay the maintenance fee and the failure to receive the Maintenance Fee Reminder do not constitute unavoidable delay.⁷ Under the statute and regulations, the Office has no duty to notify patentees of the requirement to pay maintenance fees or to notify patentees when the maintenance fees are due. The Office's mailing of Maintenance Fee Reminders is carried out strictly as a courtesy. Accordingly, it is solely the responsibility of the patentee to assure that the maintenance fee is timely paid to prevent expiration of the patent. The lack of knowledge of the requirement to pay a maintenance fee and/or the failure to receive the Maintenance Fee Reminder will not shift the burden of monitoring the time for paying a maintenance fee from the patentee to the Office.⁸

After the passing of patentee's attorney, it was up to the patentee to hire another attorney to assist in the payment of the maintenance fees. Patentee could have contacted the Inventors Assistance Center (IAC) by telephone at 800-786-9199 or 571-272-1000, Monday through Friday from 8:30 AM to 5:30 PM (EST). The IAC provides patent information and services to the public and is staffed by former Supervisory Patent Examiners and experienced Primary Examiners who answer general questions concerning patent examining policy and procedure. Also, the information regarding the maintenance fees and fee schedules are available on the USPTO website. At no time did patentee mention that a call was made by him to the USPTO regarding the payment of the maintenance fees or any other information regarding the patent.

⁷ See Patent No. 4,409,763, *supra*; see also "Final Rules for Patent Maintenance Fees" 49 Fed. Reg. 34716, 34722-34723 (August 31, 1984), reprinted in 1046 Off. Gaz. Pat. Office 28, 34 (September 25, 1984).

⁸ *Rydeen v. Quigg*, 748 F. supp. at 900.

In summary, the showing of record does not support a finding of unavoidable delay. A delay resulting from a lack of knowledge or improper application of the patent statute, rules of practice, or the MPEP does not constitute an "unavoidable" delay.⁹ Additionally, petitioners' preoccupation with other matters which took precedence over the above-identified maintenance fee does not constitute unavoidable delay.¹⁰

Petitioner should note that if this petition is not renewed, or if renewed and not granted, then the maintenance fee and post-expiration surcharge are refundable. The \$400.00 petition fee for seeking reconsideration is not refundable. Any request for refund should be in writing to the address noted below.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail: Mail Stop PETITIONS
 Commissioner for Patents
 Post Office Box 1450
 Alexandria, VA 22313-1450

By hand: Customer Service Window
 Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

By fax: (571) 273-8300
 ATTN: Office of Petitions

By internet: EFS-Web
 www.uspto.gov/ebs/efs_help.html
 (for help using EFS-Web call the
 Patent Electronic Business Center
 at (866) 217-9197)

⁹ See Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ 1130, 1132 (N.D. Ind. 1987), Vincent v. Mossinghoff, 230 USPQ 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

¹⁰ See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982).

Patent No. 6,073,409

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Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions



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OFFICE OF PETITIONS

In re Patent No. 6,073,409 :
Issue Date: 06/13/2000 :
Application Number: 09/182,793 : DECISION ON PETITION
Filing Date: 10/30/1998 :
For: FLOORING CONSTRUCTION WITH :
CAPACITY FOR DEFLEXURE :
ADJUSTMENT :

This is a decision on the petition, filed on March 29, 2011, under 37 CFR 1.378(e) requesting reconsideration of a prior decision which refused to accept under § 1.378(b)¹ the delayed payment of a maintenance fee for the above-referenced patent.

The petition under 37 CFR 1.378(e) is **DENIED**.²

BACKGROUND

The patent issued June 13, 2000. The first maintenance fee was timely paid. The second maintenance fee could have been paid from June 13, 2007, through December 12, 2007, or, with a

¹ A grantable petition to accept a delayed maintenance fee payment under 37 CFR 1.378(b) must be include

- (1) the required maintenance fee set forth in § 1.20(e) through (g);
- (2) the surcharge set forth in § 1.20(i)(1); and

(3) a showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

² As stated in 37 CFR 1.378(e), no further reconsideration or review of the decision refusing to accept the delayed payment of the maintenance fee under § 1.378(b) will be undertaken. This decision may be regarded as a final agency action within the meaning of 5 U.S.C. § 704 for purposes of seeking judicial review. See MPEP 1001.02.

surcharge during the period from December 13, 2007 through June 13, 2008. Accordingly, the patent expired at midnight on June 13, 2008, for failure to timely submit the second maintenance fee.

The petition under 37 CFR 1.378(b) filed on August 17, 2010, was dismissed on January 31, 2011.

The subject request for reconsideration was filed on March 29, 2011.

In the original decision, petitioner, via his current registered patent practitioner, stated that his prior patent attorney, Anthony J. McNulty, informed him of when the first maintenance fee was due. Attorney McNulty apparently proffered payment of the first maintenance fee on behalf of petitioner.

Petitioner further stated that he learned that attorney McNulty passed away on February 12, 2005. Petitioner states that he obtained the patent files from McNulty's office, but was unaware of the due date for the second maintenance fee.

Petitioner further averred that in June, 2007, he received a letter from the "United States Patent Renewal Service" (hereinafter "USPRS") requesting payment of \$175.00 in connection with the renewal of the patent. Petitioner states that he believed that the USPRS document was an official letter from the USPTO, and that, by responding to the USPRS letter, he "believed that this was all that would be needed to handle in a timely manner any fees then coming due for the above-identified patent." Petitioner has provided a copy of the letter from USPRS, as well as a copy of the \$175.00 check he submitted as payment to USPRS. Petitioner averred that no further communication was received from the USPRS or the USPTO.

Lastly, petitioner stated that he learned on June 22, 2010, that the patent had expired. The original petition was then filed on August 17, 2010.

On January 31, 2011, the original petition was dismissed.

On March 29, 2011, the subject request for reconsideration was filed. Petitioner asserts, via his registered patent practitioner, that the delay was unavoidable because petitioner believed the letter from USPRS was an official Government document, and that payment of the \$175.00 would satisfy the obligation to pay the maintenance fee. Petitioner again avers

that since no further communication was received from the USPTO, or USPRS, he believed that no further payments were due. Petitioner further avers that the USPRS document constitutes an intentional deception or practitioner's concealment of error which would constitute an unavoidable delay, analogous to the circumstances in *In Re Lonardo*, 7 USPQ2d 1455, 1990 WL 354576 (Comm'r Pat. 1990).

STATUTE AND REGULATION

35 U.S.C. § 41(c)(1) states that:

The Director may accept the payment of any maintenance fee required subsection (b) of this section which is made within twenty-four months after the six-month grace period if this delay is shown to the satisfaction of the Director to have been unintentional, or at any time after the six-month grace period if the delay is shown to the satisfaction of the Director to have been unavoidable.

37 CFR 1.378(b)(3) states that any petition to accept an unavoidably delayed payment of a maintenance fee must include:

A showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date, and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

OPINION

The Director may accept late payment of the maintenance fee if the delay is shown to the satisfaction of the Director to have been "unavoidable".³ A patent owner's failure to pay a maintenance fee may be considered to have been "unavoidable" if

³ 35 U.S.C. § 41(c)(1).

the patent owner "exercised the due care of a reasonably prudent person."⁴ This determination is to be made on a "case-by-case basis, taking all the facts and circumstances into account."⁵ Unavoidable delay under 35 U.S.C. § 41(b) is measured by the same standard as that for reviving an abandoned application under 35 U.S.C. § 133.⁶ Under 35 U.S.C. § 133, the Director may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Director to have been "unavoidable". Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable.⁷ However, a petition to revive an application as unavoidably abandoned cannot be granted where a petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay.⁸ In view of In re Patent No. 4,409,763,⁹ this same standard will be applied to determine whether "unavoidable" delay within the meaning of 37 CFR 1.378(b) occurred.

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.378(b)(3).

As 35 U.S.C. § 41(c) requires the payment of fees at specified intervals to maintain a patent in force, rather than some response to a specific action by the Office under 35 U.S.C. § 133, a reasonably prudent person in the exercise of due care and diligence would have taken steps to ensure the timely payment of such maintenance fees.¹⁰ That is, an adequate showing that the delay was "unavoidable" within the meaning of 35 U.S.C. § 41(c) and 37 CFR 1.378(b)(3) requires a showing of the steps taken to ensure the timely payment of the maintenance fees for this patent.¹¹

35 U.S.C. § 41(c)(1) does not require an affirmative finding that the delay was avoidable, but only an explanation as to why the

⁴ Ray v. Lehman, 55 F.3d 606, 608-09 (Fed.Cir.), cert. denied, -- U.S. ---, 116 S.Ct. 304, 116 L.Ed.2d 209 (1995).

⁵ Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982).

⁶ In re Patent No. 4,409,763, 7 USPQ2d 1798, 1800 (PTO Comm'r 1988).

⁷ Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913).

⁸ Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

⁹ 7 USPQ2d 1798, 1800 (Comm'r Pat. 1988), aff'd sub nom. Rydeen v. Quigg, 748 F.2d 623 (Fed. Cir. 1991) (table), cert. denied, 502 U.S. 1075 (1992).

¹⁰ Ray, 55 F.3d at 609, 34 USPQ2d at 1788.

¹¹ Id.

petitioner has failed to carry his or her burden to establish that the delay was unavoidable.¹² Petitioner is reminded that it is the patentee's burden under the statutes and regulations to make a showing to the satisfaction of the Director that the delay in payment of a maintenance fee is unavoidable.¹³

In *In Re Lonardo*,¹⁴ the Commissioner found that the delay in prosecution of an application was unavoidable when the applicant's counsel had assured applicant's wife, on multiple occasions, that counsel was prosecuting the application, when in fact counsel had failed to diligently prosecute the application, and had concealed from applicant counsel's failure to diligently prosecute the application.

The situation at hand is not analogous to that which occurred in *Lonardo*. In this regard, petitioner concedes that he did not appoint new patent counsel to track and pay the maintenance fee after the death of attorney McNulty. In pertinent part, petitioner states "I did not see any need for further legal advice nor to incur any additional expenses for the above-identified patent, as Mr. McNulty's advice seemed to remain applicable to the above-identified patent following his death." As such, petitioner had no reasonable basis to believe that the maintenance fee for the subject patent was being tracked or would be paid by counsel.

Rather, in this case, petitioner asserts that he believed that the letter from USPRS constituted a letter from the USPTO, or another Government agency, and that response to that letter constituted payment of the maintenance fee.

In this regard, while it is unfortunate that petitioner believed that response to the USPRS letter constituted payment of the maintenance fee, petitioner's mistaken belief does not rise to the level of unavoidable delay. At the outset, unlike the situation in *Lonardo*,¹⁵ petitioner has not demonstrated that USPRS, or any persons associated with USPRS, were appointed as petitioner's patent counsel. Further, the lower portion of the USPRS letter states, in pertinent part: "THIS SERVICE HAS NOT

¹² Cf. *Commissariat A. L'Energie Atomique v. Watson*, 274 F.2d 594, 597, 124 USPQ 126, 128 (D.C. Cir. 1960) (35 U.S.C. § 133 does not require the Commissioner to affirmatively find that the delay was avoidable, but only to explain why the applicant's petition was unavailing).

¹³ See *Rydeen v. Quigg*, 748 F. Supp. 900, 16 USPQ2d 1876 (D.D.C. 1990), aff'd 937 F.2d 623 (Fed. Cir. 1991) (table), cert. denied, 502 U.S. 1075 (1992); *Ray v. Lehman*, *supra*.

¹⁴ 17 USPQ2d 1455 (Comm'r Pat. 1990).

¹⁵ See Note 14 *supra*.

BEEN APPROVED OR ENDORSED BY THE FEDERAL GOVERNMENT AND THIS OFFER IS NOT BEING MADE BY AN AGENCY OF THE FEDERAL GOVERNMENT. THE FEE FOR THIS SERVICE IS NOT REQUIRED TO BE PAID BY OR TO ANY GOVERNMENTAL AGENCY. THIS IS NOT A BILL." As such, while the USPRS letter has been formatted to appear similar to Office letters, a quick reading of the USPRS letter reveals that it is not a letter from the USPTO, and was not sent on behalf of the USPTO.

Further in this regard, assuming, *arguendo*, that the letter from USPRS was, in fact, deceptive in implying that the maintenance fee would be paid by USPRS, the rule in *Lonardo*¹⁶ would not apply because the deception or concealment was not practiced by petitioner's attorney, but by a third party. Reliance upon third party prosecution of a patented file without an express contractual obligation does not constitute unavoidable delay within the meaning of 35 U.S.C. § 133.¹⁷ Assuming, *arguendo*, such a contract existed, petitioner would have had to show what steps were taken by petitioner to inquire as to the third party's reasonably diligent efforts to timely pay the maintenance fees.¹⁸ Petitioner has neither provided evidence that a third party was contractually obligated to pay the maintenance fees for the present patent nor shown petitioner had maintained inquiry with that third party as to the steps taken to timely pay the maintenance fee. Petitioner has not shown what steps were taken by petitioner to ensure timely payment of the maintenance fee.

Petitioner has provided no evidence that USPRS was contractually obligated to pay the maintenance fee in the present patent. In this regard, the USPRS letter states simply that USPRS would send "the necessary documents for you to renew your Patent" to petitioner. While, again, it is unfortunate that petitioner did not receive any such documentation from USPRS, petitioner, by his own admission, did not maintain inquiry with USPRS to ensure that steps were taken to timely pay the maintenance fee. In fact, at the time the maintenance fee fell due, the showing of record is that neither USPRS nor petitioner had any steps in place to ensure payment of the maintenance fee. Delay resulting from the failure of the patent holder to have any steps in place to pay the fee by either obligating a third party to track and pay the

¹⁶ See Note 14, *supra*.

¹⁷ See *Futures Tech. Ltd. v. Quigg*, 7 USPQ2d 1588 (E.D. Va. 1988).

¹⁸ See *Winkler v. Ladd*, 138 USPQ 666 (Comm'r Pat. 1963).

fee, or by itself assuming the obligation to track and pay the fee, is not unavoidable delay.¹⁹

In summary, the showing of record is inadequate to establish unavoidable delay. Petitioner has not shown that it had docketed the patent for payment of the first maintenance fee in a reliable tracking system. Rather, than unavoidable delay, the showing of record is that petitioner failed to take adequate precautions to ensure that maintenance fees were timely paid. As petitioner has not shown that he exercised the standard of care observed by a reasonable person in the conduct of his or her most important business, the petition will be denied.²⁰

CONCLUSION

The prior decision which refused to accept under § 1.378(b) the delayed payment of a maintenance fee for the above-identified patent has been reconsidered. For the above stated reasons, the delay in this case cannot be regarded as unavoidable, or unintentional, within the meaning of 35 U.S.C. § 41(c)(1) and 37 CFR 1.378(b).

Since this patent will not be reinstated, the maintenance fee(s) and surcharge fee(s) submitted by petitioner will be refunded to counsel's deposit account. The \$400.00 fee for reconsideration will not be refunded, and will be deducted from the amount refunded.

As stated in 37 CFR 1.378(e), no further reconsideration or review of this matter will be undertaken.

Telephone inquiries should be directed to Senior Petitions Attorney Douglas I. Wood at 571-272-3231.



Anthony Knight
Director, Office of Petitions

¹⁹ See R.R. Donnelley & Sons Co. v. Dickinson, 123 F.Supp.2d 456, 460, 57 USPQ2d 1244, 1247 (N.D. Ill. 2000); Ray, supra; California, supra; Femspec v. Dudas, 2007 U.S. Dist. LEXIS 8482 (N.D.Ca 2007).

²⁰ See note 7, supra.



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OFFICE OF PETITIONS

**ELMAN TECHNOLOGY LAW, P.C.
P.O. BOX 209
SWARTHMORE PA 19081**

In re Patent No. 6,073,409 :
Issue Date: June 13, 2000 :
Application No. 09/182,793 : **DECISION ON REQUEST FOR REFUND**
Filed: October 30, 1998 :
Attorney Docket No. CHA1.001 :

This is a decision on the Request For Refund filed August 4, 2011.

The request is **GRANTED**.

Applicant files the above request for refund and states that "On August 17, 2010, we filed a Petition to Accept Unavoidably Delayed Payment of Maintenance Fee in an Expired Patent under 37 CFR 1.378(b) along with the required second Maintenance Fee with surcharge, in U.S. Patent Application No. 09/182,793 issued as U.S. Patent 6,073,409. The petition was dismissed on January 31, 2011. On March 29, 2011, we filed a Petition for Reconsideration under 37 CFR 1.378(e), which was denied on July 5, 2011."

Applicant further states that "The Decision on Petition, denying the Petition for Reconsideration under 37 CFR 1.378(e), clearly concludes that since this patent will not be reinstated, the Maintenance Fee and surcharge fee submitted by the petitioner should be refunded to the counsel's deposit account."

In view of the above, the request for refund is granted. A total of \$1,940.00 is being credited to deposit account no. 05-0845 as authorized.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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In re Patent No.	6980641	:
Issue Date:	December 27, 2005	:
Application No.	09182833	:DECISION GRANTING PETITION
Filed:	October 29, 1998	:UNDER 37 CFR 1.378(c)
Attorney Docket No.	P9091	:

This is a decision on the electronic petition, filed September 7, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 7, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6980641	2005-12-27	09182833	1998-10-29	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input checked="" type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Kendal M. Sheets/	Date (YYYY-MM-DD)	2010-09-07
Name	Kendal M. Sheets	Registration Number	47077
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No.	6176506	:
Issue Date:	January 23, 2001	:
Application No.	09183104	:DECISION GRANTING PETITION
Filed:	October 30, 1998	:UNDER 37 CFR 1.378(c)
Attorney Docket No.	0290.00002	:

This is a decision on the electronic petition, filed January 17, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 17, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,176,506	2001-01-23	09/183,104	1998-10-30	142025

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|---------------------------------|-----|--------|
| <input type="radio"/> 3 ½ year | | (1551) |
| <input type="radio"/> 7 ½ year | | (1552) |
| <input type="radio"/> 11 ½ year | | (1553) |

Small Entity

- | | Fee | Code |
|---|-----|--------|
| <input type="radio"/> 3 ½ year | | (2551) |
| <input checked="" type="radio"/> 7 ½ year | | (2552) |
| <input type="radio"/> 11 ½ year | | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/DAVID J. MARR/	Date (YYYY-MM-DD)	2011-01-17
Name	DAVID J. MARR	Registration Number	32915
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

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2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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30 ROCKEFELLER PLAZA
44TH FLOOR
NEW YORK NY 10112-4498

MAILED
SEP 27 2011
OFFICE OF PETITIONS

In re Patent No. 6,630,310
Issued: October 7, 2003
Application No.: 09/183,676
Filed: October 30, 1998
Attorney Docket No. **ABY95-06A3**

:
:
:
: NOTICE
:
:

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions



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Commissioner for Patents
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P.O. Box 1450
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MAILED

JUN 10 2011

OFFICE OF PETITIONS

MCCARTER & ENGLISH, LLP STAMFORD
CANTERBURY GREEN
201 BROAD STREET, 9TH FLOOR
STAMFORD CT 06901

In re Patent No. 6,053,207	:	
Issue Date: April 25, 2000	:	
Application No. 09/184,258	:	ON PETITION
Filed: November 2, 1998	:	
For: Valve Cover and Its Related System	:	

This is a decision on the petition under 37 CFR 1.378(b), filed April 29, 2011, to accept the unavoidably delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this 2-month time limit can be granted under 37 CFR 1.136(a) or (b). Any such petition for reconsideration must be accompanied by the petition fee of \$400 as set forth in 37 CFR 1.17(f). The petition for reconsideration should include an exhaustive attempt to provide the lacking item(s) noted below, since, after a decision on the petition for reconsideration, the Director will undertake no further reconsideration or review of the matter. This includes statements by all persons with direct knowledge of the cause of the delay, setting forth the facts, as they know them. If a request for reconsideration is filed, it must establish that the entire delay in the submission of the maintenance fee was unavoidable.

The patent issued April 25, 2000. The 7.5 year (second) maintenance fee could have been paid from April 25, 2007 through October 24, 2007 or with a surcharge during the period from October 25, 2007 through April 25, 2008. Accordingly, the patent expired on April 26, 2008, for failure to timely submit the 7.5 year maintenance fee.

A petition to accept the delayed payment of a maintenance fee under 35 USC 41(c) and 37 CFR 1.378(b) must be accompanied by (1) an adequate showing that the delay was unavoidable, since reasonable care was taken to insure that the maintenance fee would be paid timely, (2) payment of the appropriate maintenance fee, unless previously submitted, and (3) payment of the surcharge set forth in 37 CFR 1.20(i)(1). This petition lacks item (1) above.

Pursuant to petitioner's request, deposit account no 50-3570 will be charged the \$700.00 surcharge and the \$1240.00 maintenance fee.

A petition under 37 CFR 1.378(b) for the acceptance of an unavoidably delayed payment of maintenance fee is considered under the same standard as that for reviving an application unavoidably abandoned under 37 CFR 1.137(a) because 35 U.S.C. § 41(c)(1) uses the identical language, *i.e.*, "unavoidable" delay.² Decisions reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable.³ In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account."⁴ Finally, a petition to revive an application as unavoidably abandoned cannot be granted where a petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay.⁵

The general standard applied by the Office requires petitioner to establish that petitioner treated the patent the same as a reasonable and prudent person would treat his or her most important business.⁶ However, "the question of whether an applicant's delay in prosecuting an application was unavoidable [will] be decided on a case by case basis, taking all of the facts and circumstances into account".⁷ Nonawareness of the content of, or misunderstanding of PTO statutes, PTO rules, the MPEP or Official Gazette notices, do not constitute unavoidable delay.⁸ The statute requires a "showing" by petitioner. Therefore, petitioner has the burden of proof.

The word 'unavoidable' ... is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business.⁹

² Ray v. Lehman, 55 F.3d 606, 608-09, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995)(quoting In re Patent No. 4,409,763, 7 USPQ2d 1798, 1800 (Comm'r Pat. 1988)).

³ Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful man in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913).

⁴ Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel's nonawareness of PTO rules does not constitute unavoidable delay); Vincent v. Mossinghoff, 1985 U.S. Dist. Lexis 23119, 13 230 U.S.P.Q. (BNA) 621 (D.D.C. 1985) (Plaintiffs through their counsel's actions or their own must be held responsible for having noted the MPEP section and Official Gazette notices expressly stating that the certified mailing procedures outlined in 37 CFR 1.8(a) do not apply to continuation applications).

⁵ Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

⁶ The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard 35 U.S.C. 41(c)(1) states, "The Commissioner may accept the payment of any maintenance fee...at any time...if the delay is shown to the *satisfaction of the Commissioner* to have been unavoidable (emphasis added).

⁷ Smith v. Mossinghoff, 671 F.2d at 533.

⁸ *Id.* at 538.

⁹ In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 U.S.P.Q. 666, 167-68 (D.D.C.

PETITIONER'S ARGUMENT

- Petitioner states that the instant patent was donated and assigned to University of Connecticut ("UConn") on August 15, 2007. The assignment was recorded with the Office on September 23, 2008.
- Traditionally, UConn manages its patent portfolio through a small number of outside law firms. The outside law firms are responsible for monitoring deadlines and soliciting instructions from UConn as to steps to be taken with respect to deadlines. The deadlines are monitored in computerized docket system of the outside law firms.
- The correspondence address of record for the patent was identified as attorney David Fink. UConn did not take steps to transfer responsibility for the patent to one of its existing outside law firm, nor did UConn update the correspondence address. Further UConn did not independently docket information regarding the patent.
- Petitioner states that the failure to transfer responsibility for the patent to one of the outside firms was due to the unusual nature of the donation of the patent to UConn.
- Dr. Charles D. Goodwin, Director of Technology Licensing at UConn, states that there is no record of any communication from Attorney Fink to UConn regarding maintenance fees due.
- On or about April 18, 2011, Dr. Goodwin was contacted by UConn employees and discovered the status of the patent based upon the failure to pay the second maintenance fee.
- Dr. Goodwin contacted Attorney Nabulsi of McCarter & English LLP who filed the instant petition.
- Petitioner maintains reasonable care was taken to ensure that the maintenance fees would be paid timely and the failure to pay the maintenance fee was in part due to the unusual nature of the donation of the patent and in part due to a failure of communication between Attorney Fink and UConn.

APPLICATION OF THE UNAVOIDABLE STANDARD

Petitioner's arguments have been considered but are not persuasive. In general a grantable petition under 37 CFR 1.378 (b) must show 1) petitioner knew of the need to make the

1963), aff'd, 143 U.S.P.Q. 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

maintenance fee payment, 2) implemented a reliable docketing system to track the relevant dates 3) treated the payment of the maintenance fee (and later the filing of a petition to reinstate) as his most important business 4) was prevented from making the payment and 5) must show the entire delay in making the payment and submitting a grantable petition was unavoidable.

In essence, petitioner must show that he was aware of the need to pay the maintenance fee, and to that end was tracking it, or had engaged someone to track it before the expiration, but when the fee came due, was "unavoidably" prevented from making the maintenance fee payment due. In determining whether a delay in paying a maintenance fee was unavoidable, one looks to whether the party responsible for payment of the maintenance fee exercised the due care of a reasonably prudent person. Ray, 55 F3d at 608-609, 34 USPQ2D at 1787. It is incumbent upon the patent owner to implement steps to schedule and pay the fee, or obligate another to do so. See California Medical Products v. Technol. Med. Prod., 921 F.Supp 1219, 1259 (D. Del. 1995). That is, 37 CFR 1.378(b)(3) requires a showing of the steps in place to pay the maintenance fee, and the record currently lacks a showing that any steps were emplaced by petitioner or anyone else. In the absence of a showing that petitioner or anyone else was engaged in tracking the maintenance fee due dates, and that party had in fact been tracking the due dates with a reliable tracking system, such as would be used by prudent and careful men in relation to their most important business, petitioner cannot reasonably show that the delay was unavoidable delay. In re Katrapat, 6 USPQ2d 1863, 1867-1868 (Comm'r Pat. 1988); California, supra.

The petition does not demonstrate that petitioner UConn maintained a tracking system. To the extent petitioner contends he relied upon a system maintained by Attorney Fink no information has been provided to establish what if any system utilized by Attorney Fink Gibson.

It is solely the responsibility of the patentee to ensure that the maintenance fee is paid timely to prevent expiration of the patent. Petitioner was under a duty to promptly notify the Office of any change of correspondence address or revocation of power of attorney. See MPEP 711.03 (c)(III)(c)(2). The Office looks to the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant/patentee and their successors, and the applicant/patentee and their successors are bound by the consequences of those actions or inactions. Link v. Wabash, 370 U.S. 626, 633-34 1962). Failure to monitor the status of a patent does not reflect the due care and diligence employed by a prudent and careful person with respect to their most important business and as such cannot demonstrate that the delay was unavoidable delay. A petitioner who is treating his patent as his most important business would have attempted to contact Attorney Fink to ensure that appropriate action had been taken on petitioner's behalf. If it was determined Attorney Fink had not handled the application as petitioner desired, it is then petitioner's responsibility to either timely seek other counsel or submit the maintenance fee on petitioner's own behalf. Petitioner has failed to provide any evidence that it was Attorney Fink's duty to inform petitioner of the due date of the maintenance fee. The record lacks any showing that the attorney or any firm which was associated with this patent ever represented to petitioner that the maintenance fee had been paid, much less that petitioner ever paid the attorney for services rendered with respect to the maintenance fee payment.

In the absence of a showing that any steps had been taken, then 37 CFR 1.378(b) precludes acceptance of the payment. In other words, if no steps were taken by either petitioner or Attorney Fink there after to track the fee payment, then the concurrent and subsequent actions or inactions of petitioner would be immaterial to the delay. The showing must be that when the system indicated the fee fell due, petitioner was “unavoidably” prevented from taking any earlier action with respect to this patent.

The issue is solely whether the maintenance, or reinstatement, of the patent at issue was actually conducted with the care or diligence that is generally used and observed by prudent and careful persons in relation to their most important business.

Ultimately, petitioner argues that the failure to submit the maintenance fee was due to the failure to communicate with Attorney Fink. It is well established that a failure to communicate between a client and an attorney is not unavoidable delay In re Kim, 12 USPQ2d 1595 (Comm’r Pat. 1988) A delay resulting from an attorney’s preoccupation with other legal matters or with the attorney’s inadvertence or mistake is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable within the meaning of 35 USC 151 and 37 CFR 1.378 Mossinghoff, 671 F.2d at 536. Specifically, petitioner’s delay caused by the mistakes or negligence of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 U.S.C. 133 or 37 CFR 1.137(a).

Accordingly, the facts presented do not allow for a finding of unavoidable delay.

When filing documentation in support of applications or petitions, please take steps to protect all personal information. “Personal information” includes social security, credit card and banking account numbers. This type of personal data is never required by the USPTO to support a petition or application. To protect your privacy, we suggest that you delete such information from any documentation you send the office.

Petitioner’s current options

I. Petitioner may file a request for reconsideration.

Any request for reconsideration of this decision must be filed within **TWO MONTHS** of the mailing date of this decision. Any such petition for reconsideration must be accompanied by the \$400 petition fee set forth in §1.17(h). After decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director. Accordingly, on request for reconsideration, it is extremely important the petitioner supply any and all relevant information and documentation in order to meet his burden of showing unavoidable delay. This includes statements by all persons with direct knowledge of the cause of the delay, setting forth the facts as they know them. If a request for reconsideration is filed, it must establish that the entire delay in the submission of the maintenance fee was unavoidable.

II. Petitioner may request a refund of the maintenance fee and surcharge which accompanied the petition.

Petitioner may request a refund of the maintenance fee and surcharge by writing to the Office of Finance, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313. A copy of this decision should accompany petitioner's request.

Further correspondence with respect to this matter should be addressed as follows:

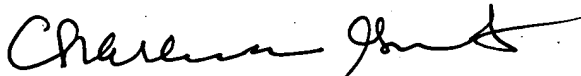
By Mail: Mail Stop PETITION
 Commissioner for Patents
 Post Office Box 1450
 Alexandria, VA 22313-1450

By Hand: U. S. Patent and Trademark Office
 Customer Service Window, Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

A submission may also be provided via electronic filing system (EFS).

Telephone inquiries should be directed to the undersigned at (571) 272-3215.


Charlema Grant
Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MCCARTER & ENGLISH, LLP STAMFORD
CANTERBURY GREEN
201 BROAD STREET, 9TH FLOOR
STAMFORD CT 06901

MAILED
AUG 15 2011
OFFICE OF PETITIONS

In re Application of	:	
George W. Benedetti	:	
Application No. 09/184,258	:	DECISION ON REQUEST FOR REFUND
Filed: November 2, 1998	:	
Attorney Docket No. 98121.00194	:	

This is a decision on the Request For Refund filed August 10, 2011.

The request is **GRANTED**.

In the decision mailed June 10, 2011, it stated that "Petitioner may request a refund of the maintenance fee and surcharge"

In view of the above, a total of \$1,940.00 (maintenance fee \$1,240.00 and \$700.00 surcharge fee), is being credited to deposit account no. 50-3570.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/185,878	11/03/1998	JEREMY R. LENT	132538-1001	1164
<div>32914 7590 08/09/2010</div> <div>GARDERE WYNNE SEWELL LLP</div> <div>INTELLECTUAL PROPERTY SECTION</div> <div>3000 THANKSGIVING TOWER</div> <div>1601 ELM ST</div> <div>DALLAS, TX 75201-4761</div>				
			<div>EXAMINER</div> <div>FISCHER, ANDREW J</div>	
			<div>ART UNIT</div> <div>3621</div>	<div>PAPER NUMBER</div>
			<div>MAIL DATE</div> <div>08/09/2010</div>	<div>DELIVERY MODE</div> <div>PAPER</div>

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

GARDERE WYNNE SEWELL LLP
INTELLECTUAL PROPERTY SECTION
3000 THANKSGIVING TOWER
1601 ELM ST
DALLAS, TX 75201-4761

In re Application of: Jeremy R. Lent et. al.	: DECISION ON PETITION
Appl. No. 09/185,878	: FOR CORRECTION OF
Patent No. 6,567,791	: OF PATENT UNDER
Filed: November 3, 1998	: 37 C.F.R. § 1.324
For: METHOD AND APPARATUS FOR A	:
VERIFIABLE ON LINE REJECTION	:
OF AN APPLICATION FOR CREDIT	:

This is a decision on a petition under 37 C.F.R. § 1.324 filed 02 June 2009 ("June 2009 Petition") to correct the inventorship of a patent under 37 C.F.R. § 1.324.

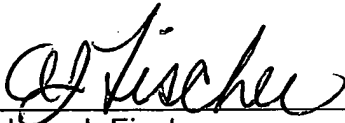
The petition is **dismissed**.

A petition to correct inventorship as provided by 37 C.F.R. § 1.324 requires (1) a statement from each person who is being added as an inventor that the inventorship error occurred without any deceptive intention on their part, (2) a statement from the current named inventors (including any "inventor" being deleted) who have not submitted a statement as per "(1)" either agreeing to the change of inventorship or stating that they have no disagreement in regard to the requested change, (3) a statement from all assignees of the parties submitting a statement under "(1)" and "(2)" agreeing to the change of inventorship in the patent; such statement must comply with the requirements of 37 CFR 3.73(b); and (4) the fee set forth in 37 CFR 1.20(b). This petition lacks a statement from all currently named inventors as per "(1)" either agreeing to the change of inventorship or stating that they have no disagreement in regard to the requested change.

Suspension of the rules under 37 C.F.R. § 1.183 may be granted for any requirement of the regulations which is not a requirement of a statute. In this instance, the June 2009 Petition is requesting waiver of a statute (*i.e.* 35 U.S.C. § 256). Because 35 U.S.C. 256 requires all currently named inventors to supply a statement as noted

above and because the USPTO can not waive statutory requirements¹, the waiver can not be granted.

Accordingly, the petition under 37 C.F.R. § 1.1.324 is dismissed as moot.



Andrew J. Fischer
Supervisory Patent Examiner, Art Unit 3621
Technology Center 3600
(571) 272-6779

7/26/2010

¹ See *In re Mother Tucker's Food Experience, Inc.*, 925 F.2d 1402, 1404-05, 17 USPQ2d 1795, 1797-98 (Fed. Cir. 1991) (noting that PTO cannot waive statutory requirements).



UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Sheridon K. Snedden
Pillsbury Winthrop Shaw Pittman, LLP (NV)
PO Box 10500
McLean VA 22102

MAILED

JAN 13 2012

OFFICE OF PETITIONS

In re Patent No. 6,224,635
Issued: May 1, 2001
Application No. 09/187,584
Filed: November 6, 1998
For: IMPLANTATION OF SURGICAL
IMPLANTS WITH CALCIUM SULFATE

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, practitioner's signature appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If practitioner desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to practitioner, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the correspondence address of record.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

AVAYA INC.
MARGARET CARMICHAEL, DOCKETING SPECIALIST
1300 W. 120TH AVENUE
ROOM B1-F53
WESTMINSTER CO 80234

MAILED

MAR 24 2011

OFFICE OF PETITIONS

In re Application of :
Andrew T. Busey :
Application No. 09/187,895 : **NOTICE**
Filed: November 6, 1998 :
Attorney Docket No. **004068.P004X2** :

This is a notice regarding your request filed February 1, 2011, for acceptance of a fee deficiency submission under 37 CFR 1.28.


The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Douglas M. Grover appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If, Douglas M. Grover desires to be acknowledged as the attorney or record in this file, the appropriate power of attorney documents must be submitted.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-4584.


JoAnne Burke
Petitions Examiner
Office of Petitions

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,319,913	2001-11-20	09/189,090	1998-11-09	010692-004210US

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☒ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input checked="" type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Frank J. Mycroft/	Date (YYYY-MM-DD)	2010-11-30
Name	Frank J. Mycroft	Registration Number	46946
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No.	6319913	:
Issue Date:	November 20, 2001	:
Application No.	09189090	:DECISION GRANTING PETITION
Filed:	November 9, 1998	:UNDER 37 CFR 1.378(c)
Attorney Docket No.	10692-004210	:

This is a decision on the electronic petition, filed November 30, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 30, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6304913 :
Issue Date: October 16, 2001 :
Application No. 09189100 :DECISION GRANTING PETITION
Filed: November 9, 1998 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 34645-00427USPT :

This is a decision on the electronic petition, filed October 6, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 6, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6304913	2001-10-16	09189100	1998-11-09	36465-00427USPT

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input checked="" type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/John Han, Reg No 41403/	Date (YYYY-MM-DD)	2011-10-06
Name	John C. Han	Registration Number	41403
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MARY ELLEN COLQUHOUN
2600 NORTH FLAGLER DR 710
WEST PALM BEACH FL 33407

Paper No. 11

MAILED

OCT 20 2010

OFFICE OF PETITIONS

In re Patent No: 6,089,424
Issue Date: July 18, 2000
Application No. 09/190,584
Filed: November 12, 1998
Attorney Docket No.

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed July 22, 2010, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Any petition for reconsideration of this decision must be accompanied by the petition fee of \$400 as set forth in 37 CFR 1.17(f). The petition for reconsideration must include the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

A petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. 41(c) and 37 CFR 1.378(c) must be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2). This petition lacks item (1) above.

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee the assignee, or other party in interest."

The statement of delay is not acceptable. In this regard, petitioner's attention is directed to 37 CFR 1.33(b), which states.

(b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:

- (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
- (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
- (3) An assignee as provided for under § 3.71(b) of this chapter; or
- (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.


Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
 Commissioner for Patents
 Post Office Box 1450
 Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
 Customer Service Window, Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Telephone inquiries should be directed to the undersigned at (703) 571- 4231.


Michelle R. Eason
Paralegal Specialist
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patent Prosecution Dept.
MURABITO, HAO & BARNES LLP
TWO NORTH MARKET STREET
THIRD FLOOR
SAN JOSE CA 95113

MAILED
MAY 02 2011
OFFICE OF PETITIONS

In re Patent No. 6,292,164 :
Issue Date: September 18, 2001 :
Application No. 09/191,774 :
Filed: November 13, 1998 :
For: System and Method for Character Display and :
Entry in Character Processing System :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed March 10, 2011.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SALIWANCHIK LLOYD & SALIWANCHIK
A PROFESSIONAL ASSOCIATION
PO BOX 142950
GAINESVILLE, FL 32614

MAILED

SEP 09 2010

OFFICE OF PETITIONS

In re Application of
Jack L. ARONOWITZ
Application No. 09/193,062
Filed: November 16, 1998
Attorney Docket No. **ARO-105**

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed September 17, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the final Office action mailed, March 13, 2001, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 14, 2001.

The petition is not accompanied by a statement of express abandonment in favor of the filing of a continuing application. In order to facilitate action, the petition to revive should include reference to the filing of a continuing application and a letter of express abandonment, conditional upon the granting of the petition and of a filing date to the continuing application. Nevertheless, in view of the statement that the reply is the filing of a continuing application, the statement will be construed as a request to expressly abandon this application in favor of the continuing application. If this was not the intent of applicant, the Office should be promptly notified.


Also, it is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the

filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of \$1540; and (3) an adequate statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application 12/212,420 filed September 17, 2008.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.


Thurman K. Page
Petitions Examiner
Office of Petitions



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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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A PROFESSIONAL ASSOCIATION
PO BOX 142950
GAINESVILLE FL 32614**

MAILED

OCT 27 2010

OFFICE OF PETITIONS

In re Application of :
Jack L. Aronowitz :
Application No. 09/193,062 :
Filed: November 16, 1998 : **DECISION ON REQUEST FOR REFUND**
Attorney Docket No. ARO-105 :

This is a decision on the Request For Refund filed October 6, 2010.

The request is **GRANTED**.

Applicant states that a petition under 37 CFR 1.137(b) was submitted on September 17, 2008, accompanied by authorization to charge the petition fee of \$770.00.

Office finance records show that \$1,540.00 was charged to applicant's account number on August 30, 2010.

In view of the above, a total of \$770.00 is being refunded to applicant's deposit account no. 19-0065 as requested.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No.	6314416	:
Issue Date:	November 6, 2001	:
Application No.	09193233	:DECISION GRANTING PETITION
Filed:	November 17, 1998	:UNDER 37 CFR 1.378(c)
Attorney Docket No.	MR1543-11	:

This is a decision on the electronic petition, filed January 11, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 11, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,314,416	2001-11-06	09/193,233	1998-11-17	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input checked="" type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/John P. Moran/	Date (YYYY-MM-DD)	2011-01-11
Name	John P. Moran	Registration Number	30906
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6356759	2002-03-12	09194576	1998-11-27	27592-00560-US

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input checked="" type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Jeffrey W. Gluck/	Date (YYYY-MM-DD)	2010-08-11
Name	Jeffrey W. Gluck	Registration Number	44457
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6356759 :
Issue Date: March 12, 2002 :
Application No. 09194576 :DECISION GRANTING PETITION
Filed: November 27, 1998 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 27592-00560-US :

This is a decision on the electronic petition, filed August 11, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 11, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

MAILED
OCT 01 2010
OFFICE OF PETITIONS

In re Application of	:	
Diab et al.	:	
Application No. 09/195,791	:	
Filed: November 17, 1998	:	
US Patent No. 7,328,053 B1	:	DECISION
Issued: May 20, 2008	:	
Attorney Docket No. MASIMO.7CP1C5	:	
For: Signal Processing Apparatus	:	

The above-identified application has been forwarded to the undersigned for consideration of two petitions for patent term extension received on July 2, 2009, which are entitled "Request for Reconsideration for Decision on Petition for Patent Term Extension – Suspension Delay" and "Request for Reconsideration for Decision on Petition for Patent Term Extension – Termination Delay."

The petition for Patent Term Extension for "Suspension Delay" is **Denied**.

The petition of Patent Term Extension for "Termination Delay" is **Denied**.

Background

On November 17, 1998, the above identified application was received by the Office.

On October 3, 2003, a first letter of suspension of action due to a potential interference was mailed by the Office.

On May 16, 2006, a second letter of suspension of action due to a potential interference was mailed by the Office.

On July 18, 2006, a Declaration of Interference was mailed by the Office.

On November 24, 2006, a judgment was made, by a decision mailed by the Board of Patent Appeals and Interferences.

On March 13, 2007, a Notice of Allowance and Fee Due notice was mailed by the Office.

Petitioner filed a petition as "Petition under 37 CFR 1.181 for Correction of Patent Term Extension" received on April 4, 2008 and a "Supplemental Petition under 37 CFR 1.181 for Correction of Patent Term Extension," received on June 30, 2008 for an extension of the patent term. The first petition was treated as a petition under 37 CFR 1.181 and 37 CFR 1.701, and the second petition was treated as a petition under 37 CFR 1.182, since 37 CFR 1.701 does not provide for patent term extension for delays that occur due to a suspension for a potential interference. On June 2, 2009, the first petition was granted-in-part and the second petition was dismissed and the patent term extension was 191 days.

In the Petition for "Suspension Delay," Petitioner asserts that the Office erred in not granting an additional 246 days of patent term extension because the Examiner initiated two suspensions. Petitioner asserts that it is improper for the Office to distinguish between the two types of suspensions. Petitioner asserts that the Office should read 1.701 to include delays due to suspensions from actual and potential interference proceedings in view of the statute. Petitioner asserts that 35 U.S.C. § 135(a) establishes the interference process whether it be an actual declared interference or a suspension to await a declaration of interference. Petitioner asserts that the statute forms the basis for the Examiner initiated suspensions due to a potential interference and thus such a suspension should be deemed an "interference proceeding" under § 135(a) and pursuant to 1.701. Petitioner asserts that the length or duration of delay due to suspension is entirely within control of the Office and as such fairness dictates that such unilateral action by the Office should provide additional term extension for applicant.

In the Petition for "Termination Delay," Petitioner asserts that the Office erred in not granting an additional 19 days of patent term extension for the time it took the Board of Patent Appeals and Interferences (BPAI) to forward the case to the Examiner. Petitioner asserts the definition of the term "termination" from 37 CFR 41.205(a), should not be read broadly to apply in the 1.701 regulation. Petitioner asserts that the regulation is a narrowly applicable subsection, as it is in a subsection entitled "Settlement Agreements", while the former regulation was entitled "Termination of interference after judgment." Petitioner asserts that 1.701 should be read to allow for patent term extension if a patent is "delayed due to" interference proceedings and that the length of the delay due to failure to promptly forward the application is within the control of the Office and not the Petitioner. Petitioner argues that fairness dictates that such unilateral action by the Office should result in additional term of 19 days for Petitioner.

Petitioner asserts that the patent is entitled to an additional 246 days of patent term extension due to the suspension delays and an additional 19 days of patent term extension due to delays in returning the application to the Examiner for a total of 265 additional days of patent term extension.

Applicable Statutes and Regulation

35 U.S.C. 135 Interferences.

(a) Whenever an application is made for a patent which, in the opinion of the Director, would interfere with any pending application, or with any unexpired patent, an interference may be declared and the Director shall give notice of such declaration to the applicants, or applicant and patentee, as the case may be. The Board of Patent Appeals and Interferences shall determine questions of priority of the inventions and may determine questions of patentability. Any final decision, if adverse to the claim of an applicant, shall constitute the final refusal by the Patent and Trademark Office of the claims involved, and the Director may issue a patent to the applicant who is adjudged the prior inventor. A final judgment adverse to a patentee from which no appeal or other review has been or can be taken or had shall constitute cancellation of the claims involved in the patent, and notice of such cancellation shall be endorsed on copies of the patent distributed after such cancellation by the Patent and Trademark Office. . . .

35 U.S.C. 154. Contents and term of patent (in effect on June 8, 1995)

(b) TERM EXTENSION.-

(1) INTERFERENCE DELAY OR SECRECY ORDERS.-If the issue of an original patent is delayed due to a proceeding under section 135(a) of this title, or because the application for patent is placed under an order pursuant to section 181 of this title, the term of the patent shall be extended for the period of delay, but in no case more than 5 years.

(2) EXTENSION FOR APPELLATE REVIEW.-If the issue of a patent is delayed due to appellate review by the Board of Patent Appeals and Interferences or by a Federal court and the patent is issued pursuant to a decision in the review reversing an adverse determination of patentability, the term of the patent shall be extended for a period of time but in no case more than 5 years. A patent shall not be eligible for extension under this paragraph if it is subject to a terminal disclaimer due to the issue of another patent claiming subject matter that is not patentably distinct from that under appellate review.

37 CFR 1.701 Extension of patent term due to examination delay under the Uruguay Round Agreements Act (original applications, other than designs, filed on or after June 8, 1995, and before May 29, 2000).

(a) A patent, other than for designs, issued on an application filed on or after June 8, 1995, is entitled to extension of the patent term if the issuance of the patent was delayed due to:

- (1) Interference proceedings under 35 U.S.C. 135(a); and/or
- (2) The application being placed under a secrecy order under 35 U.S.C. 181; and/or
- (3) Appellate review by the Board of Patent Appeals and Interferences or by a Federal court under 35 U.S.C. 141 or 145, if the patent was issued pursuant to a decision in the review reversing an adverse determination of patentability and if the patent is not subject to a terminal

disclaimer due to the issuance of another patent claiming subject matter that is not patentably distinct from that under appellate review. If an application is remanded by a panel of the Board of Patent Appeals and Interferences and the remand is the last action by a panel of the Board of Patent Appeals and Interferences prior to the mailing of a notice of allowance under 35 U.S.C. 151 in the application, the remand shall be considered a decision in the review reversing an adverse determination of patentability as that phrase is used in 35 U.S.C. 154(b)(2) as amended by section 532(a) of the Uruguay Round Agreements Act, Public Law 103-465, 108 Stat. 4809, 4983-85 (1994), and a final decision in favor of the applicant under paragraph (c)(3) of this section. A remand by a panel of the Board of Patent Appeals and Interferences shall not be considered a decision in the review reversing an adverse determination of patentability as provided in this paragraph if there is filed a request for continued examination under 35 U.S.C. 132(b) that was not first preceded by the mailing, after such remand, of at least one of an action under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151.

(b) The term of a patent entitled to extension under paragraph (a) of this section shall be extended for the sum of the periods of delay calculated under paragraphs (c)(1), (c)(2), (c)(3) and (d) of this section, to the extent that these periods are not overlapping, up to a maximum of five years. The extension will run from the expiration date of the patent.

(c)(1) The period of delay under paragraph (a)(1) of this section for an application is the sum of the following periods, to the extent that the periods are not overlapping:

(i) With respect to each interference in which the application was involved, the number of days, if any, in the period beginning on the date the interference was declared or redeclared to involve the application in the interference and ending on the date that the interference was terminated with respect to the application; and

(ii) The number of days, if any, in the period beginning on the date prosecution in the application was suspended by the Patent and Trademark Office due to interference proceedings under 35 U.S.C. 135(a) not involving the application and ending on the date of the termination of the suspension.

(2) The period of delay under paragraph (a)(2) of this section for an application is the sum of the following periods, to the extent that the periods are not overlapping:

(i) The number of days, if any, the application was maintained in a sealed condition under 35 U.S.C. 181;

(ii) The number of days, if any, in the period beginning on the date of mailing of an examiner's answer under § 41.39 of this title in the application under secrecy order and ending on the date the secrecy order and any renewal thereof was removed;

(iii) The number of days, if any, in the period beginning on the date applicant was notified that an interference would be declared but for the secrecy order and ending on the date the secrecy order and any renewal thereof was removed; and

(iv) The number of days, if any, in the period beginning on the date of notification under § 5.3(c) and ending on the date of mailing of the notice of allowance under § 1.311.

(3) The period of delay under paragraph (a)(3) of this section is the sum of the number of days, if any, in the period beginning on the date on which an appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and ending on the date of a final

decision in favor of the applicant by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145.

(d) The period of delay set forth in paragraph (c)(3) shall be reduced by:

(1) Any time during the period of appellate review that occurred before three years from the filing of the first national application for patent presented for examination; and

(2) Any time during the period of appellate review, as determined by the Director, during which the applicant for patent did not act with due diligence. In determining the due diligence of an applicant, the Director may examine the facts and circumstances of the applicant's actions during the period of appellate review to determine whether the applicant exhibited that degree of timeliness as may reasonably be expected from, and which is ordinarily exercised by, a person during a period of appellate review.

(e) The provisions of this section apply only to original patents, except for design patents, issued on applications filed on or after June 8, 1995, and before May 29, 2000.

37 CFR 41.205 Settlement agreements.

(a) *Constructive notice; time for filing.* Pursuant to 35 U.S.C. 135(c), an agreement or understanding, including collateral agreements referred to therein, made in connection with or in contemplation of the termination of an interference must be filed prior to the termination of the interference between the parties to the agreement. After a final decision is entered by the Board, an interference is considered terminated when no appeal (35 U.S.C. 141) or other review (35 U.S.C. 146) has been or can be taken or had. If an appeal to the U.S. Court of Appeals for the Federal Circuit (under 35 U.S.C. 141) or a civil action (under 35 U.S.C. 146) has been filed the interference is considered terminated when the appeal or civil action is terminated. A civil action is terminated when the time to appeal the judgment expires. An appeal to the U.S. Court of Appeals for the Federal Circuit, whether from a decision of the Board or a judgment in a civil action, is terminated when the mandate is issued by the Court.

Opinion

The patent statute only permits extension of patent term based on very specific criteria. The Office has no authority to grant any extension or adjustment of the term due to administrative delays except as authorized by 35 U.S.C. § 154. 35 U.S.C. § 154 provides for patent term extension for appellate review, interference and secrecy order delays in utility and plant applications filed on or after June 8, 1995, and, as amended by the "American Inventors Protection Act of 1999," enacted November 29, 1999, as part of Public Law 106-113, for other specifically defined administrative delays in utility and plant applications filed on or after May 29, 2000.

The above-identified application was filed on November 17, 1998. Accordingly it is entitled to patent term extension based upon the conditions in 35 U.S.C. § 154(b), in effect on June 8, 1995. The provisions of 35 U.S.C. § 154(b) in effect on May 29, 2000 do not apply, because the

amended version of 35 U.S.C. § 154(b) only applies to applications filed on or after May 29, 2000. Pursuant to 35 U.S.C. § 154(b), in effect on June 8, 1995, an applicant can receive patent term extension only if there was an appellate review, interference or a secrecy order delays as set forth in the statute.

With respect to the suspension delay, according to 37 CFR 1.701(c)(1)(ii), the application is entitled to patent term extension for the number of days, in the period beginning on the date prosecution in the application was suspended by the Patent and Trademark Office due to interference proceedings under 35 U.S.C. 135(a) not involving the application and ending on the date of the termination of the suspension.

Petitioner asserts that under 1.701(c)(1)(ii); the patent term extension should be 246 days for the delays due to the suspensions in prosecution due to an interference. Petitioner's argument that the Office is improperly distinguishing between a suspension to await the outcome of an interference and a suspension for a potential interference is not persuasive. In order to implement 35 U.S.C. 154(b) (in effect between June 8, 1995 and May 28, 2000), the Office promulgated 37 CFR 1.701(c)(1), which, consistent with the statute, requires an interference proceeding under 35 U.S.C. 135(a) to be eligible for patent term extension. Petitioner's assertion that the statutes (§§ 135 and 154) and the rule (1.701) do not require such an interpretation and should be read to include delays due to suspensions for interference proceedings under § 135(a) not involving the application and due to suspensions for potential interferences proceedings is not persuasive. In accordance with § 154 and § 135(a), patent term extension under the post GATT and pre AIPA statute only permits extension for the delay due to a proceeding under § 135(a).

35 U.S.C. 154 provides that "if the issue of an original patent is delayed due to a proceeding under section 135(a)", then the patent may be extended. Thus in accordance with § 154, a proceeding under § 135 is required to be eligible for patent term extension. An interference proceeding begins when the interference is declared and ends with the final decision. While the examiner may be permitted to suspend prosecution in an application, the Examiner does not have the authority to declare an interference and thus initiate an interference proceeding in accordance with § 135(a).

Although prosecution was twice suspended in the above-identified application, the suspensions were due to a potential interference either with or involving one or more other applications. The suspensions were not for the reason that the subject application was involved in an interference, or to await the result of an interference proceeding in another application. As a result, the provisions of 37 CFR 1.701(c)(1)(ii) do not apply because this section applies to suspensions by the "Office due to interference proceedings under 35 U.S.C. 135(a) not involving the application," and in this instance there were no such other interference proceedings. Therefore, Petitioner's argument that he is entitled to an additional 246 days of patent term extension for the periods of the two suspensions under 37 CFR 1.701(c)(1)(ii) is not persuasive. The application is not entitled to additional days of patent term extension under 37 CFR 1.701(c)(1)(ii). While Petitioner asserts that fairness dictates that the Office must grant additional term extension, the Office may only grant an extension as provided by the statute.

With respect to the termination delay, according to 37 CFR 1.701(c)(1)(i), the application is entitled to patent term extension for the number of days, in the period beginning on the date the interference was declared to involve the application in the interference and ending on the date that the interference was terminated with respect to the application. The interference was declared on July 18, 2006, the date of the Declaration of Interference. A final decision by the BPAI was entered and mailed on November 24, 2006, the date of the decision. According to 37 CFR 41.205, after a final decision by the BPAI is entered, interference is considered terminated when no appeal or other review has been or can be taken. As a result, the period of extension is 191 days, the period from July 18, 2006, the date of the declaration of interference to January 24, 2007, which is two months after the mailing of the decision by the BPAI including the beginning and end dates.

Petitioner's assertion that additional patent term extension (19 days) should be granted because the interference was not terminated until December 21, 2007, the date the application was dispatched to the Examiner, is not persuasive. In accordance with 37 CFR 41.205, the interference was terminated two months after the mail date of the decision by the BPAI, when no further appeal was taken. After the BPAI entered the final decision, there were no further interference proceedings with respect to the application, thus the application is not entitled to additional patent term extension, regardless of whether the application remained in the BPAI's area. Petitioner's assertion that the statute (§ 154) and the rule (1.701) should be read broadly and given greater interpretational weight than 37 CFR 41.205 is not persuasive. In accordance with 35 U.S.C. 154 and 35 U.S.C. 135, patent term extension under the post GATT and pre AIPA statute only permits extension for the delay due to a proceeding under section 135(a) and a proceeding begins when the interference is declared and ends two months after the final decision. While Petitioner asserts that fairness dictates that the Office must grant additional patent term extension, the Office may only grant an extension as provided for by the statute. Petitioner's assertion that the failure to promptly forward the application was entirely within control of the Office is not persuasive. Petitioner could have contacted the Office or filed a paper concerning the termination of the interference.

Petitioner's assertion that 41.205 is a narrowly applicable subsection and is only for settlement agreements is not persuasive. In accordance with the rule, "After a final decision is entered by the Board, an interference is considered terminated when no appeal (35 U.S.C. 141) or other review (35 U.S.C. 146) has been or can be taken or had." Contrary to Petitioner's assertion that the subheading narrows the applicability of the rule, the language in the preamble discussing the implementation of the final rule clearly states the section "incorporates Rule 661" and "[i]n addition, § 41.205(a) provides that after a final decision is entered by the Board, an interference is considered terminated when no appeal (35 U.S.C. 141) or other review (35 U.S.C. 146) has been or can be taken or had".¹

The Office has no authority to grant an extension of the term due to administrative delays except as authorized by 35 U.S.C. § 154.

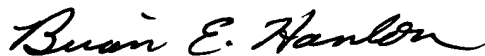
¹ Rules of Practice Before the Board of Patent Appeals and Interferences – Final Rule, 69 FR 49960, 49969, (Aug. 12, 2004).

Decision

The prior decision which granted-in-part a petition under 35 U.S.C. 154(b) and 37 CFR 1.701 and dismissed a second petition under 37 CFR 1.182 for patent term extension for the delayed issuance of the patent for the above-identified patent application have been reconsidered. For the reasons stated herein, and in the previous decision, however, additional patent term extension in this case cannot be granted under 35 U.S.C. § 154(b) and 37 CFR §§ 1.181, 1.182 and 1.701. Therefore, the petitions are denied.

This decision may be viewed as a final agency action. See MPEP § 1002.02(b).

Telephone inquiries with regard to this communication should be directed to Mark O. Polutta at (571) 272-7709.



Brian Hanlon
Director
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,328,053 B1

DATED : February 5, 2008

INVENTOR(S) : Diab et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 0 days.

Delete the phrase "by 0 days" and insert – by 191 days--



UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED

DEC 13 2011

OFFICE OF PETITIONS

In re Patent No. 6,500,636 :
Issue Date: December 31, 2002 :
Application No. 09/196,270 : **NOTICE**
Filed: November 19, 1998 :
Attorney Docket No. 14551-003001 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to Diane Goodwyn at (571) 272-6735.

Thurman K. Page
Petitions Examiner
Office of Petitions

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web		PTO/SB/141 U.S. Patent and Trademark Office Department of Commerce
Electronic Petition Request	Petition to Correct Assignee After Payment of Issue Fee (37 CFR 3.81(b))	
Application Number	09196338	
Filing Date	19-Nov-1998	
First Named Inventor	SEAN HANDEL	
Attorney Docket Number	10761.0009-00	
Title of Invention	A PERSONALIZED PRODUCT REPORT	
Pursuant to 37 CFR 3.81(b), applicant hereby request that the listed assignee with respect to U.S. Patent Number 8121891 be corrected to accurately reflect the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.		
<input checked="" type="checkbox"/> I certify, in accordance with 37 CFR 1.4(d)(4), that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent.		
Correction of Assignee Current Assignment Listed (240 char limit) The assignment information is currently listed as:		
Accenture Global Services GmbH		
Update Assignment Listing to (240 char limit) Change assignment information to the following:		
Accenture Global Services Limited		
<input checked="" type="checkbox"/> As required by 37 CFR 3.81, a Request for a Certificate of Correction is being filed herewith, along with the fee set forth in 37 CFR 1.20(a).		

- ☐ Applicant(s) status remains as OTHER THAN small entity.
- ☐ Applicant claims SMALL ENTITY status. See 37 CFR 1.27.
- ☐ Applicant(s) status remains as SMALL ENTITY.
- ☒ Applicant is no longer claiming small entity status. See 37 CFR 1.27(g)(2).

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

I certify, in accordance with 37 CFR 1.4(d)(4) that I am:

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.
- ☐ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.
- ☐ A sole inventor
- ☐ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors
- ☐ A joint inventor; all of whom are signing this request
- ☐ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71

Signature	/Erika H. Arner/
Name	Erika H. Arner
Registration Number, if applicable	57540



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date: April 2, 2012

In re Patent No. 8121891

Issue Date: 21-Feb-2012

Application No 09196338

DECISION ON REQUEST
UNDER 37 CFR 3.81(b)

Filed date 19-Nov-1998

Attorney Docket No 10761.0009-00

This is an electronic decision on the request filed April 2, 2012 under 37 CFR 3.81(b) to correct the name of the assignee of the above-identified patent by way of a Certificate of Correction.

Petitioner request that the listed assignment information be replace with updated assignment information.
Assignment Information Currently Listed As:

Accenture Global Services GmbH

Change Assignment Information to the Following:

Accenture Global Services Limited

The request is GRANTED.

Telephone inquiries concerning this decision may be directed to the the Patent Electronic Business Center (EBC) at 866-217-9197.

Inquiries regarding the issuance of a Certificate of Correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificate of Correction Branch will be notified of this decision granting the request under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Gail Taylor Russell
Suite R-12
10601 FM 2222
Austin, TX 78730

MAILED
FEB 07 2012
OFFICE OF PETITIONS

In re Patent of Karney et al.	:	
Patent No. 5,988,097	:	
Issue Date: November 23, 1999	:	Decision on Petition
Application No. 09/197,987	:	
Filing Date: November 23, 1998	:	
Attorney Docket No. 801134	:	

This is a decision on the petition under 37 C.F.R. § 1.378(b) filed December 23, 2011, which requests reinstatement of the patent.

The petition is **DISMISSED**.

Facts

The inventors of record are Steven Karney and Edward Frieling.

The patent issued November 23, 1999.

The patent expired because the 3.5 year maintenance fee was not timely paid. A decision reinstating the patent was mailed September 7, 2004.

The patent expired because the 7.5 year maintenance fee was not timely paid. A decision reinstating the patent was mailed November 28, 2007.

The 11.5 year maintenance fee could have been paid from November 23, 2010, to May 23, 2011, or with a surcharge from May 24, 2011, to November 23, 2011. The fee was not timely paid. As a result, the patent expired November 24, 2011.

Sherry Frieling, on behalf of SmartBoat, LLC ("Smartboat"), states the patent agent of record failed to notify SmartBoat when the 11.5 year maintenance fee became due.

Applicable Law

A grantable petition under 37 C.F.R. § 1.378(b) must be accompanied by a showing to the satisfaction of the Director that the entire delay in paying the required maintenance fee from the due date for the fee until the filing of a grantable petition pursuant to this paragraph was unavoidable.

In order for a party to show unavoidable delay, the party must show "reasonable care was taken to ensure that the maintenance fee would be promptly paid."¹ The level of "reasonable care" required to be shown is the same as the level of "care or diligence ... generally used and observed by prudent and careful men in relation to their most important business."² When determining if a period of delay has been shown to have been unavoidable, the Office will take "all the facts and circumstances into account" and will decide each petition "on a case-by-case basis."³

35 U.S.C. § 41(c)(1) states, with emphasis added, "The Director may accept the payment of any maintenance fee . . . after the six month grace period if the delay is *shown to the satisfaction of the Director* to have been unavoidable." Therefore, petitioner has the burden of proof. The decision will be based solely on the written, administrative record in existence. A petition will not be granted if petitioner provides insufficient evidence to "show" that the delay was unavoidable.

The Office and Congress have recognized the unavoidable standard can be very difficult to meet. During 1992, Congress considered the difficulty involved in reinstating a patent under the unavoidable. Congressional representatives described the unavoidable standard as inflexible, extremely hard to meet, too stringent and harsh.⁴ Congress did NOT take steps to make the unavoidable standard more flexible, easier to meet, less stringent, or less harsh. Instead, Congress determined that it would allow patent owners the ability to reinstate a patent under an "unintentional" standard as long as the petition was filed within 24 months of the expiration of the patent. Congress chose to continue requiring proof of unavoidable delay for petitions filed after the 24 month time period.

¹ 37 C.F.R. § 1.378(b).

² *In re Mattulath*, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912). See also *Ray v. Lehman*, 55 F.3d 606, 34 U.S.P.Q.2d (BNA) 1786 (Fed. Cir. 1995) (citations omitted) ("[I]n determining whether a delay in paying a maintenance fee was unavoidable, one looks to whether the party responsible for payment of the maintenance fee exercised the due care of a reasonably prudent person.")

³ *Smith v. Mossinghoff*, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982).

⁴ "[The unavoidable] standard has been found to be extremely hard to meet. Some patent owners have lost their patent rights due to this inflexible standard." 138 CONG. REC. S16613, 16614 (September 30, 1992) (Rep. DeConcini) (emphasis added). "The unavoidable standard has proved to be too stringent in many cases." 138 CONG. REC. H1115 (October 3, 1992) (Rep. Hughes) (emphasis added). "The unavoidable standard is 'too stringent'. Some patent owners have lost their patent rights due to circumstances that do not warrant this harsh result, but that could not be considered 'unavoidable' under current law." 138 CONG. REC. E1688 (June 4, 1992) (extension of remarks of Rep. McCollum) (emphasis added).

Analysis

Smartboat, LLC ("Smartboat") has not Proven Smartboat is the Owner of the Patent.

Assignment records indicate the four trustees of the Edward Frieling Revocable Trust assigned the trust's rights in the patent to themselves, and then assigned their rights to Smartboat on November 6, 2010. However, assignment records do not establish the Edward Frieling Revocable Trust ever owned any rights to the patent. As a result, the inventors are presumed to be the owners of the patent.

The Petition Fails to Address the Conduct of the Inventors.

Since the inventors are presumed to be the owners of the patent, a grantable petition under 37 C.F.R. § 1.378(b) must address the conduct of the inventors. The petition fails to address the conduct of either inventor. Therefore, the petition cannot be granted.

Any request for reconsideration must address the conduct of the inventors or prove Smartboat owns all rights in the patent.

The Petition Fails to Prove Smartboat's Reliance on the Agent of Record was Reasonable.

Even if the record established Smartboat owns all rights in the patent, the petition could not be granted.

Smartboat appears to be asserting it relied on Alvin Blum, the agent of record, to notify Smartboat when the 11.5 year maintenance fee became due.

Smartboat fails to establish Smartboat ever hired Blum to notify Smartboat when the fee became due. In fact, Smartboat has failed to prove it has ever been one of Blum's clients. Therefore, the record fails to prove Smartboat's reliance on Blum to notify Smartboat when the 11.5 year maintenance fee became due was consistent with the level of care normally used by reasonable and prudent individuals when handling their most important business.

The Petition Fails to Fully Address Blum's Conduct.

Even if the record established Smartboat owns the patent, and established Smartboat's reliance on Blum was warranted, the petition could not be granted.

When the owner of a patent relies on a third-party to take certain steps or actions to ensure maintenance fees are timely paid for a patent, the owner "may obtain reinstatement only upon a showing that the third-party's failure to pay the maintenance fees was 'unavoidable.'"⁵ The petition does not prove Blum's failure to notify Smartboat when the 11.5 year maintenance fee became due was unavoidable.

⁵ *Burandt v. Dudas*, 496 F. Supp. 2d 643, 652 (E.D. Va. 2007) (quoting *California Med. Prods., Inc., Tecnol Ved. Prods., Inc.*, 921 F. Supp. 1219, 1259 (D. Del. 1995)).

The Address of Record

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person who signed the instant petition, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

Petitioner's Current Options

I. Petitioner may file a request for reconsideration.

Any request for reconsideration must be submitted within **TWO (2) MONTHS** from the mail date of this decision and include a non-refundable petition fee of \$400. Extensions of time under 37 C.F.R. § 1.136(a) are NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. § 1.378(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The Office notes Petitioner submitted \$310 more than necessary (\$3,375 instead of \$3,065) when filing the petition. If a request for reconsideration is filed, Petitioner may request the excess \$310 be applied towards the \$400 fee and submit \$90 for the remainder of the fee.

After a decision on the petition for reconsideration is issued, no further reconsideration or review of the matter will be undertaken by the Director. Therefore, it is extremely important that petitioner supply **any** and **all** relevant information and documentation with his request for reconsideration. The Commissioner's decision will be based solely on the administrative record in existence. Petitioner should remember that it is not enough that the delay was unavoidable; petitioner must **prove** that the delay was unavoidable. A petition will not be granted if petitioner provides insufficient evidence to "show" that the delay was unavoidable. Therefore, if a request for reconsideration is filed, it must establish that the entire delay in the submission of the maintenance fee was unavoidable.

II. Petitioner may wish to file a petition under 37 C.F.R. § 1.378(c).

Petitioner may wish to consider filing a petition to reinstate the patent based on unintentional expiration under 37 C.F.R. § 1.378(c). A copy of a PDF-fillable form which may be used when filing the petition can be found at <http://www.uspto.gov/web/forms/sb0066.pdf>.

The surcharge for a petition under 37 C.F.R. § 1.378(c) is \$1,640. Therefore, if a petition under 37 C.F.R. § 1.378(c) is filed, it must be accompanied by a payment of \$630 (\$1,640 reduced by \$700 and reduced by \$310 overpayment).

III. Petitioner may request a refund of the funds which accompanied the petition.

Since the petition is dismissed, petitioner may request a refund of the \$3,375 filed December 23, 2011. Petitioner is reminded that if a request for reconsideration is later filed along with the \$400 fee, the \$400 will not be refunded. A request for a refund should be sent to: Mail Stop 16, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany any request for refund.

Further correspondence with respect to this matter may be submitted as follows:

By Internet: A request for reconsideration may be filed electronically using EFS Web.⁶ Document Code "PET.OP" should be used if the request is filed electronically.

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.



Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

⁶ General Information concerning EFS Web can be found at <http://www.uspto.gov/patents/process/file/efs/index.jsp>.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 17

TERRA NOVA PATENT LAW, PLLC
MINNESOTA CENTER, SUITE 1100
7760 FRANCE AVENUE SOUTH
MINNEAPOLIS, MN 55435

MAILED

MAY 18 2011

OFFICE OF PETITIONS

In re Patent No. 6,305,697	:	
Issue Date: October 23, 2001	:	
Application No. 09/198,240	:	ON PETITION
Filed: November 23, 1998	:	
Attorney Docket No. TNPL028.002US1	:	

This is a decision on the petition under 37 CFR 1.378(c), filed April 11, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

The patent issued October 23, 2001. The second maintenance fee could have been paid from October 23, 2008 through April 24, 2009, or with a \$65 surcharge during the period from April 24, 2009 through October 23, 2009. Accordingly, the patent expired at midnight April 26, 2009, for failure to timely submit, the (second) 7 ½ year maintenance fee.

A petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. 41(c) and 37 CFR 1.378(c) must be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2). This petition lacks item (2) and (3) above.

A review of the record shows that while petitioner did give authorization to charge the petitioner's credit card, no credit card information was provided to cover the cost of the maintenance fee and surcharge. Therefore, the before a petition filed under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the maintenance fee can be reviewed, the fee of \$1640 for the surcharge and the maintenance fee payment of \$1240 must be paid. No consideration on the merits can be given that petition until the required fees are received.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within **TWO (2) MONTHS** from the mail date of this decision. **No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b).** This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Any petition for reconsideration of this decision must be accompanied by the petition fee of \$400 as set forth in 37 CFR 1.17(f). The petition for reconsideration must include the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
 Commissioner for Patents
 Post Office Box 1450
 Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
 Customer Service Window, Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642.



April M. Wise
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED

AUG 09 2011

OFFICE OF PETITIONS

**TERRA NOVA PATENT LAW, PLLC
MINNESOTA CENTER, SUITE 1100
7760 FRANCE AVENUE SOUTH
MINNEAPOLIS, MN 55435**

In re Patent No. 6,305,697 :
Issue Date: October 23, 2001 :
Application No. 09/198,240 :
Filed: November 23, 1998 :
Attorney Docket No. TNPL028.002US1 :

REQUIREMENT FOR INFORMATION

This is a decision on the renewed petition received June 9, 2011 in response to the notice of patent expiration mailed November 23, 2009.

A review of the record reveals that the petitioner filed a petition to pay the 7 ½ year maintenance fee by paying the surcharge on April 11, 2011 in the amount of \$1620 and the maintenance fee in the amount of \$400 concurrently with the renewed petition on June 9, 2011. However, the fees submitted are not sufficient to reinstate the above identified patent. In this regard the maintenance fee is \$1240, the petitioner paid \$400 and the required surcharge fee is \$1640 and petitioner has paid 1620. In order to reinstate the patent, petitioner must submit the additional \$20 to cover the surcharge, \$840 to cover the maintenance fee and \$400 for the renewed petition fee as stated in the original decision. A total amount of \$1260 is needed to cover the fee deficiency.

Petitioner states he would like to "reinstate" his patent. To do so, patentee must file a renewed petition and submit the required fees to cover all deficiencies as required by 37 CFR 1.378(c).

Telephone inquiries related to this communication should be directed to the undersigned at (571) 272-1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TERRA NOVA PATENT LAW, PLLC
MINNESOTA CENTER, SUITE 1100
7760 FRANCE AVENUE SOUTH
MINNEAPOLIS, MN 55435

MAILED

AUG 18 2011

OFFICE OF PETITIONS

In re Patent No. 6,305,697
Issue Date: October 23, 2001
Application No. 09/198,240
Filed: November 23, 1998
Attorney Docket No. TNPL028.002US1

ON PETITION

CORRECTED DECISION

This is a corrected decision on the renewed petition under 37 CFR 1.378(c), filed June 9, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on October 23, 2009 for failure to pay the 7 ½ year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6034281 :
Issue Date: March 7, 2000 :
Application No. 09198879 :DECISION GRANTING PETITION
Filed: November 24, 1998 :UNDER 37 CFR 1.378(c)
Attorney Docket No. FER-227 :

This is a decision on the electronic petition, filed April 4, 2012, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 4, 2012. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6034281	2000-03-07	09198879	1998-11-24	NOP-227

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|--|-----|--------|
| <input type="radio"/> 3 ½ year | | (1551) |
| <input type="radio"/> 7 ½ year | | (1552) |
| <input checked="" type="radio"/> 11 ½ year | | (1553) |

Small Entity

- | | Fee | Code |
|---------------------------------|-----|--------|
| <input type="radio"/> 3 ½ year | | (2551) |
| <input type="radio"/> 7 ½ year | | (2552) |
| <input type="radio"/> 11 ½ year | | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/ Kenneth A. Clark /	Date (YYYY-MM-DD)	2012-04-04
Name	Kenneth A. Clark	Registration Number	32119
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No.	6314513	:
Issue Date:	November 6, 2001	:
Application No.	09199003	:DECISION GRANTING PETITION
Filed:	November 23, 1998	:UNDER 37 CFR 1.378(c)
Attorney Docket No.	002379.P051X	:

This is a decision on the electronic petition, filed October 18, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 18, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6314513	2001-11-06	09199003	1998-11-23	002379.P051X

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input checked="" type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Kendal M. Sheets/	Date (YYYY-MM-DD)	2010-10-15
Name	Kendal M. Sheets	Registration Number	47077
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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COMMISSIONER FOR PATENTS
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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

Paper No.
MAILED
JAN 24 2011
OFFICE OF PETITIONS

In re Application of :
Benneker et al. : DECISION
Application No. 09/200,743 : ON APPLICATION FOR
Patent No. 7,598,271 : PATENT TERM ADJUSTMENT
Filed: November 30, 1998 :
Issued: October 6, 2009 :
Atty Docket No. 091856-0111 :
Title: CRYSTALLINE PAROXETINE :
METHANE SULFONATE :

This is a decision on the "RENEWED REQUEST FOR RECONSIDERATION OF PTA UNDER 37 C.F.R. § 1.705 & RESPONSE TO DECISION ON PETITION," filed on October 22, 2009 and supplemented on June 2, 2010. Patentee requests that the patent term adjustment be increased from two thousand and seventy-two (2072) days to two thousand, five hundred and fourteen (2514) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by two thousand and seventy-three (2073) days is **GRANTED to the extent indicated herein.**

The \$200 fee that is associated with the filing of this petition will be charged to Deposit Account No. 19-0741 in due course, as authorized on the seventh page of this petition.

On October 1, 2008, Applicants submitted a "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT," which was granted via the mailing of a decision on February 10, 2009.

On May 21, 2009, Applicants submitted a petition requesting that the patent term adjustment be increased to two thousand and seventy-two (2072) days, which was dismissed as premature via the mailing of a decision on August 26, 2009.

Application No. 09/200,743 matured into U.S. patent No. 7,598,271 on October 6, 2009, with a patent term adjustment of two thousand and seventy-two (2072) days.

Patentee has indicated that this patent is not subject to a terminal disclaimer.¹

With this petition, there are five periods of examination and applicant delay that are in dispute.

Regarding the first period that is in dispute, the Office agrees that the period of examination delay pursuant to 37 C.F.R. § 1.703(c)(1) totals 603 days,² and not 602 days.

Regarding the second period that is in dispute, the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period. Therefore, the over three-year period begins on November 28, 2003 and ends on March 5, 2009, the day before the first RCE was filed, which amounts to 1925 (not 1926)³ days. See U.S.C. 154(b)(1)(B)(i).

Regarding the third period that is in dispute, the 215-day period of applicant delay discussed on the sixth page of this petition is not applicable.

Regarding the fourth period that is in dispute, the issue fee was paid on October 1, 2008, and a petition to withdraw the application from issuance was filed four months and 33 days later on March 6, 2009. Patentee argues this constitutes 33 days of examination delay pursuant to 37 C.F.R. § 1.703(a)(6),⁴ however no adjustment pursuant to this Rule is warranted: due to Applicant's request to withdraw the application from issuance, the Office was not required to issue the patent at that time.

Regarding the fifth period that is that is in dispute, Patentee argues that 2546 days of examination delay is warranted pursuant to 37 C.F.R. § 1.703(a)(2), as a response to a restriction requirement was filed on April 26, 2001 and a notice of allowance was mailed four months and 2,546 days later on

¹ Petition, page 6 and supplement to petition, page 6.

² Id.

³ See chart accompanying both this petition and supplement to petition.

⁴ Petition, page 5 and supplement to petition, page 5.

September 19, 2008. This calculation is erroneous, as the period of delay should have commenced with the four-month anniversary of the mailing of the decision on the interference on May 25, 2004, and not with the four-month anniversary of the filing of the response to the restriction requirement on April 26, 2001. As such, an adjustment of 1455 (not 2546) days is warranted. As was set forth on the third page of the decision of February 10, 2009:

...a favorable decision by the Board was mailed on May 25, 2004. The Office did not mail an Office action, a notice of allowance, in response until September 19, 2008, four months and 1455 days later. Pursuant to 37 CFR 1.703(a)(5), a period of adjustment of 1455 days should have been entered. Instead a period of adjustment of 2,546 days was entered. The period of adjustment of 2,546 days is being removed and the period of adjustment of 1455 days is being entered.

As such, the patent term adjustment is increased by 2073 days, not 2514 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 C.F.R. § 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, Patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under 37 C.F.R. § 1.136.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **two thousand and seventy-three (2073) days**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3225.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,598,271 B1

DATED : **October 6, 2009**

DRAFT

INVENTOR(S) : Benneker et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 2072 days

Delete the phrase “by 2072 days” and insert – by 2073 days--

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5,953,844	1999-09-21	09/201,791	1998-12-01	18387-010

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input checked="" type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/sandrabeauchesne/	Date (YYYY-MM-DD)	2012-04-18
Name	Sandra Beauchesne	Registration Number	43422
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 5953844 :
Issue Date: September 21, 1999 :
Application No. 09201791 :DECISION GRANTING PETITION
Filed: December 1, 1998 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 44117-101 :

This is a decision on the electronic petition, filed April 18, 2012, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 18, 2012. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DW Nov-11

GARDNER GROFF GREENWALD & VILLANUEVA. PC
2018 POWERS FERRY ROAD
SUITE 800
ATLANTA GA 30339

MAILED
NOV 30 2011
OFFICE OF PETITIONS

In re Patent Number: 6,019,674 :
Issue Date: 02/01/2000 :
Application Number: 09/201,915 : DECISION ON PETITION
Filing Date: 11/30/1998 :
For: TWO STEP POULTRY STUNNING :
METHOD AND APPARATUS THEREFOR :

This is a decision on the petition under 37 CFR 1.378(b), filed on July 12, 2011, to accept the delayed payment of the maintenance fee for the above-identified patent.

The petition is dismissed.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this 2-month time limit can be granted under 37 CFR 1.136(a) or (b). Any such petition for reconsideration must be accompanied by the petition fee of \$400.00 as set forth in 37 CFR 1.17(f). The petition for reconsideration should include an exhaustive attempt to provide the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

The patent issued on February 1, 2000. The first maintenance fee was timely paid. The second maintenance fee could have been paid during the period from February 15 through August 1, 2007, or, with a surcharge, during the period from August 2, 2007 through February 1, 2008. The patent expired at midnight on February 1, 2008, for failure to timely pay the second maintenance fee.

Petitioner, assignee SEC, Inc., states via its counsel, that the delay in payment of the second maintenance fee was unavoidable because of "an unfortunate combination of a death of a key

individual at the assignee and a retirement of the patent attorney."

Specifically, petitioners state that assignee's former registered patent practitioner, Eric P. Schellin (hereinafter "Schellin"), withdraw as attorney or agent from several other patents owned by petitioner SEC, Inc. In those cases, petitioners assert that attorney Schellin stated that it was his intention to close his law office. Attorney Schellin, apparently as a result of inadvertence, did not file a withdrawal of power of attorney in this case. As such, maintenance fee reminders from the USPTO continued to be sent in this case to Schellin's office, rather than to petitioner.

Petitioners further aver that Mr. Dale B. Garner, a principal with assignee SEC, Inc., and the contact person for patents, passed away on August 14, 2006. On August 13, 2007, state petitioners, the USPTO mailed a maintenance fee reminder to Schellin, but the fee reminder was not communicated to the assignee.

Petitioners state that on June 13, 2011, petitioners' new registered patent practitioner, Arthur A. Gardner, communicated to assignee SEC, Inc., that the patent had expired.

A grantable petition to accept a delayed maintenance fee payment under 37 CFR 1.378(b) must include

(1) the required maintenance fee set forth in § 1.20(e) through (g);

(2) the surcharge set forth in § 1.20(I)(1); and

(3) a showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

The petition lacks item (3), above. The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.378(b)(3).

A late maintenance fee is considered under the same standard as that for reviving an abandoned application under 35 U.S.C. § 133 because 35 U.S.C. § 41(c)(1) uses identical language (i.e.

"unavoidable delay").¹ Decisions reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable.² In this regard:

The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.³

As 35 U.S.C. § 41(c) requires the payment of fees at specified intervals to maintain a patent in force, rather than some response to a specific action by the Office under 35 U.S.C. § 133, a reasonably prudent person in the exercise of due care and diligence would have taken steps to ensure the timely payment of such maintenance fees.⁴ That is, an adequate showing that the delay was "unavoidable" within the meaning of 35 U.S.C. § 41(c) and 37 CFR 1.378(b)(3) requires a showing of the steps taken to ensure the timely payment of the maintenance fees for this patent.⁵

While petitioner alleged chose to rely upon his registered patent practitioner, Schellin, such reliance *per se* does not provide

¹ Ray v. Lehman, 55 F.3d 606, 608-09, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995) (quoting In re Patent No. 4,409,763, 7 USPQ2d 1798, 1800 (Comm'r Pat. 1989)).

² Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used by prudent and careful men in relation to their most important business").

³ In re Mattullath, 38 App. D.C. 497, 514-15 (1912) (quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

⁴ Ray, 55 F.3d at 609, 34 USPQ2d at 1788.

⁵ Id.

petitioner with a showing of unavoidable delay within the meaning of 37 CFR 1.378(b) and 35 U.S.C. § 41(c).⁶ Rather, such reliance merely shifts the focus of the inquiry from petitioner to whether the attorney or agent acted reasonably and prudently.⁷ As such, assuming that the agent had been so engaged, then it is incumbent upon petitioner to demonstrate, via a documented showing, that the attorney or agent had docketed this patent for the second maintenance fee payment in a reliable tracking system.⁸ If petitioner cannot establish that the attorney or agent had been so engaged, then petitioner will have to demonstrate what steps were established by petitioner to monitor and pay the maintenance fee.

In this case, petitioners assert that Schellin failed to properly inform petitioners that he was no longer the attorney of record in this application. Petitioners are reminded that the failure of communication between an applicant and counsel is not unavoidable delay.⁹ Specifically, delay resulting from a lack of proper communication between a patent holder and a registered representative as to who bore the responsibility for payment of a maintenance fee does not constitute unavoidable delay within the meaning of 35 U.S.C. § 41(c) and 37 CFR 1.378(b).¹⁰ Moreover, the Office is not the proper forum for resolving a dispute as to the effectiveness of communications between parties regarding the responsibility for paying a maintenance fee.¹¹

Furthermore, the showing of record indicates that petitioners relied on the receipt of the USPTO Maintenance Fee Reminders, either by counsel or by petitioners, to track and pay the maintenance fee. The failure to receive a Maintenance Fee Reminder does not constitute unavoidable delay.¹² Under the statute and regulations, the Office has no duty to notify patentees of the requirement to pay maintenance fees or to notify patentees when the maintenance fees are due. The Office mailing of Maintenance Fee Reminders is carried out strictly as a courtesy. Accordingly, it is solely the responsibility of the patentee to assure that the maintenance fee is timely paid to

⁶ See California Med. Prod. v. Technol. Med. Prod., 921 F. Supp. 1219, 1259 (D. Del. 1995).

⁷ Id.

⁸ Id.

⁹ In re Kim, 12 USPQ2d 1595 (Comm'r Pat. 1988).

¹⁰ See Ray v. Lehman, 55 F.3d 606, 610, 34 USPQ2d 1786, 1789 (Fed. Cir. 1995).

¹¹ Id.

¹² See Patent No. 4,409,763, *supra*; see also "Final Rules for Patent Maintenance Fees" 49 Fed. Reg. 34716, 34722-34723 (August 31, 1984), reprinted in 1046 Off. Gaz. Pat. Office 28, 34 (September 25, 1984).

prevent expiration of the patent. The failure to receive a Maintenance Fee Reminder will not shift the burden of monitoring the time for paying a maintenance fee from the patentee to the Office.¹³

Rather than unavoidable delay, the showing of record is that petitioner failed to ensure that there was a reliable system in place, either by petitioners' counsel, or at petitioners' own office, to ensure timely payment of the maintenance fee. Rather, petitioners simply relied on the receipt of the maintenance fee reminders to pay the maintenance fee. As petitioner has not shown that it exercised the standard of care observed by a reasonable person in the conduct of his or her most important business, the petition will be dismissed.¹⁴

Further to this point, assuming, *arguendo*, Mr. Dale B. Garner had not passed away and was still employed in his position at assignee SEC, Inc., at the time the second maintenance fee reminder was mailed, and the address on file at the USPTO for the mailing of maintenance fee reminders was that of SEC, Inc., but petitioners had not timely paid the second maintenance fee, the showing of record would not be that of unavoidable delay due to the lack of a reliable system for tracking and paying the maintenance fee independent of receipt of any reminder from the USPTO.

Since petitioner has not shown unavoidable delay, the petition will be dismissed.

Petitioner should note that if this petition is not renewed, or if renewed and not granted, then the maintenance fee and post-expiration surcharge are refundable.

The \$400.00 petition fee for seeking reconsideration is not refundable. Any request for refund should be in writing to the address noted below.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

¹³ Rydeen v. Quigg, 748 F. supp. at 900.


¹⁴ See note 4, supra.

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

A reply may also be filed via the EFS-Web system of the USPTO.

Telephone inquiries should be directed to the undersigned at 571-272-3231.


Douglas I. Wood
Senior Petitions Attorney
Office of Petitions



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Qwest Communications International Inc.
1801 California Street, # 900
Denver CO 80202

MAILED
NOV 04 2010
OFFICE OF PETITIONS

In re Application of :
Phillips et al. :
Application No. 09/203,086 :
Filed: December 1, 1998 :
Attorney Docket No. 020366-055400US :
For: SYSTEM AND METHOD FOR :
INCREASING DISTRIBUTION DISTANCE :
OF XDSL TYPE SIGNALS :

ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed September 14, 2010, requesting that the Office withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is **DISMISSED AS MOOT**.

As a preliminary matter: The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

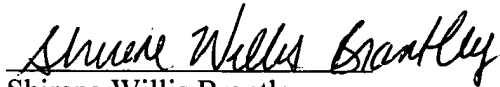
This application became abandoned for failure to properly reply to the final Office action mailed December 30, 2003, which set a three month extendable period for response. The amendments after final mailed on February 3, 2003 and June 26, 2003, respectively, failed to place the application in *prima facie* condition for allowance. The application became abandoned on July 1, 2003, which is the day after the expiration of the period set for response plus the purchased three month extension of time under 37 CFR 1.136(a). A Notice of Abandonment was mailed on October 2, 2003.

On October 16, 2003 (certificate of mailing date October 13, 2003), applicants filed a petition under 37 CFR 1.137(b) to revive the above-identified application. The petition under 37 CFR 1.137(b) to revive the application was granted on April 7, 2005.

Therefore, the present petition under 37 CFR 1.181 is dismissed as moot, as the application is not abandoned. However, the Office has taken no action in the application since April 7, 2005.

The file is being forwarded to Technology Center 2473 for processing the Notice of Appeal, filed October 16, 2003 (certificate of mailing date October 13, 2003) and consideration of the Appeal Brief, filed July 14, 2003 (certificate of mailing date June 26, 2003).

Telephone inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.



Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: CHAD E. KING
SWANSON & BRATSCUN, L.L.C.
8210 SOUTHPARK TERRACE
LITTLETON, CO 80120



UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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MARK D. LAVENDER
ST. JUDE MEDICAL,
ATRIAL FIBRILLATION DIVISION, INC.
ONE ST. JUDE MEDICAL DRIVE
ST. PAUL, MN 55117-9913

MAILED

JAN 19 2012

OFFICE OF PETITIONS

In re Patent No. 6,290,697 :
Issued: September 18, 2001 :
Application No. 09/203,125 :
Filed: December 1, 1998 :
Attorney Docket No: 0F-045400US :

ON PETITION

This is a decision regarding your request under 37 CFR 1.28. for acceptance of a fee deficiency submission filed December 23, 2011.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc., 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission in the amount of \$660, under 37 CFR 1.28, is hereby accepted and the petition is **GRANTED**.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3282.

/Patricia Faison-Ball/

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions



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VEDDER, PRICE, KAUFMAN & KAMMHOLZ, P.C.
222 NORTH LASALLE STREET
CHICAGO, IL 60601

MAILED
SEP 21 2011
OFFICE OF PETITIONS

In re Patent No. 6,284,166
Issue Date: September 4, 2001
Application No. 09/203,132
Filed: December 1, 1998
Attorney Docket No: 38732.00.0004

ON PETITION

This is a decision on the petition filed September 2, 2011, under 37 CFR 1.378(c)¹, to accept the delayed payment of the maintenance fee for the above-identified patent.

The petition under 37 CFR 1.378(c) is **GRANTED**.

The patent issued on September 4, 2001. The second maintenance fee due could have been paid during the period from September 4, 2008 to March 4, 2009, or with a surcharge during the period from March 5, 2009 to September 4, 2009. Accordingly, this patent expired on September 4, 2009 for failure to timely remit the maintenance fee.

Accordingly, the maintenance fee in this case is hereby accepted and the above-identified patent is hereby reinstated as of the mail date of this decision. Fees in the amount of \$1240.00 for the second maintenance fee and \$1,640.00 for the surcharge have been charged to deposit account no. 22-0259.

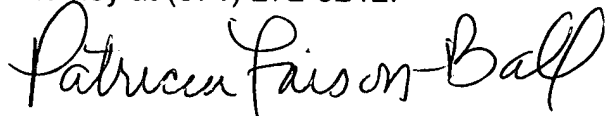
Finally, there is no indication that petitioner herein was ever empowered to handle matters related to this patent. If petitioner desires to receive future correspondence regarding this patent, the appropriate power of attorney documentation must be submitted. If the new power of attorney and/or change of address is signed by an assignee, the assignee must comply with the requirements of 37 CFR 3.73(b). This decision will be mailed to petitioner, however, all future correspondence will be mailed solely to the correspondence address of record. If petitioner desires to receive future correspondence regarding any Maintenance

¹ 37 CFR 1.378(c) provides that a petition to accept an unintentionally delayed payment of a maintenance fee must be filed within twenty-four months of the six-month grace period provided in § 1.362(e) and must include:

- (1) The required maintenance fee set forth in § 1.20(e) through (g);
- (2) The surcharge set forth in § 1.20(l)(2); and
- (3) A statement that the delay in payment of the maintenance fee was unintentional.

Fee Reminder which **may** be mailed concerning this patent, a Fee Address should be submitted to Maintenance Fee Division.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

A handwritten signature in black ink, reading "Patricia Faison-Ball". The signature is written in a cursive, flowing style with a large initial 'P' and a long, sweeping underline.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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J.C. PATENTS INC.
4 VENTURE, SUITE 250
IRVINE CA 92618

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JUL 14 2011

OFFICE OF PETITIONS

In re Patent No. 6,140,196
Issue Date: October 31, 2000
Application No. 09/203,711
Filed: December 2, 1998
Attorney Docket No.

NOTICE

This is a notice regarding your request filed June 21, 2011, for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **NOT ACCEPTED**.

It appears that the petition was not properly signed by a person having authority to prosecute in the above-identified patent. Therefore, the request can not be accepted at this time.

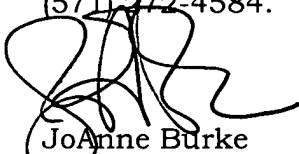
Petitioner's attention is directed to 37 CFR 1.33(b), which states.

(b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:

- (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
 - (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
 - (3) An assignee as provided for under §3.71(b) of this chapter;
- or
- (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

Accordingly, the request cannot be accepted until it is signed by all inventors, an attorney /agent who is registered to practice before the U.S. Patent and Trademark Office, or the assignee of the entire interest. If the request is signed by an assignee, the assignee the assignee must comply with the requirements of 37 CFR 3.73(b).

Inquiries related to this communication should be directed to the undersigned at (571) 272-4584.



JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Yt Tsai
Dept. Manager
United Microelectronics Corporation
No. 3, Li-Hsin Rd. II
Hsinchu Science Park, Taiwan 300 ROC



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6492065 :
Issue Date: December 10, 2002 :
Application No. 09205675 :DECISION GRANTING PETITION
Filed: December 4, 1998 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 24143 :

This is a decision on the electronic petition, filed March 22, 2012, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 22, 2012. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6492065	2002-12-10	09205675	1998-12-04	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input checked="" type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Marvin Motsenbocker/	Date (YYYY-MM-DD)	2012-03-22
Name	Marvin A. Motsenbocker	Registration Number	36614
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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FISH & RICHARDSON P.C. (BO)
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED

DEC 14 2010

OFFICE OF PETITIONS

In re Patent No. 7,799,535
Issued: September 21, 2010
Application No. 09/207,649
Filed: December 8, 1998
Attorney Docket No. **17481-0004001**

:
: **DECISION ON REQUEST FOR**
: **RECONSIDERATION OF**
: **PATENT TERM ADJUSTMENT**
:

This is a decision on the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d) filed November 22, 2010, requesting that the patent term adjustment determination under 35 U.S.C. § 154(b) be changed from 117 days to 159 days.

The request is **DISMISSED**.

Patentees are given **THIRTY (30) DAYS or ONE (1) MONTH, whichever is longer**, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

On September 21, 2010, the above-identified application matured into U.S. Patent No. 7,799,535 with a revised patent term adjustment of 117 days. On November 22, 2010, patentees timely submitted this application for patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 159 days.

Patentee disputes the reduction of 42 days for applicant delay and argues that Patentee complied with the Examiner's request and submitted the requested courtesy copy of the originally filed oath or declaration, missing from the Office's file (though it had been submitted in a timely manner during prosecution of the application). Therefore, Patentee respectfully submits that the post-allowance submission should not be considered a failure to engage in reasonable efforts to conclude prosecution of the application as outlined in 37 C.F.R. § 1.704(c)(10).

Patentee's argument has been considered but is not found to be persuasive.

A review of the file reveals that 42 days were deducted for applicant delay for the filing of supplemental papers on August 11, 2010, after allowance of an Application for Patent Term Adjustment. The reduction in question, after the mailing of the Notice of Allowance was an OATH OR DECLARATION.

37 CFR § 1.704(c)(10) provides that:

Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:

- (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper;
- or
- (ii) Four months;

The reduction has been considered a proper basis for reduction of patent term adjustment pursuant to § 1.704(c)(10).

As stated in MPEP 2732:

37 CFR 1.704(c)(10) establishes submission of an amendment under 37 CFR 1.312 or other paper after a notice of allowance has been given or mailed as a circumstance that constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. The submission of amendments (or other papers) after an application is allowed may cause substantial interference with the patent issue process.

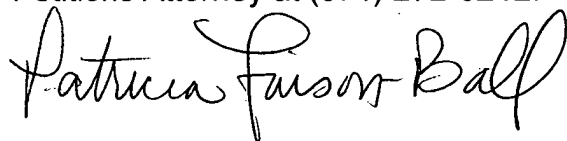
Certain papers filed after allowance are not considered to be a failure to engage in reasonable efforts to conclude processing or examination of an application. See *Clarification of 37 CFR 1.704(c)(10) – Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed*, 1247 Off. Gaz. Pat. Office 111 (June 26, 2001). The submission of the following papers after a "Notice of Allowance" is not considered a failure to engage in reasonable efforts to conclude processing or examination of an application: (1) Fee(s) Transmittal (PTOL-85B); (2) Power of Attorney; (3) Power to Inspect; (4) Change of Address; (5) Change of Status (small/not small entity status); (6) a response to the examiner's reasons for allowance or a request to correct an error or omission in the "Notice of Allowance" or "Notice of Allowability;" and (7) letters related to government interests (e.g., those between NASA and the Office). Papers that will be considered a failure to engage in reasonable efforts to conclude processing or examination of an application include: (1) a request for a

refund; (2) a status letter; (3) amendments under 37 CFR 1.312; (4) late priority claims; (5) a certified copy of a priority document; (6) drawings; (7) letters related to biologic deposits; and (8) oaths or declarations.

The record does not support a conclusion that the Oath or Declaration had been previously submitted and thus the filing of the Oath or Declaration was required to complete the record. A review of the file does reveal that papers were filed on March 24, 1999, in response to the Notice to File Missing Parts mailed January 25, 1999 and the transmittal indicates that the filing of the Oath or Declaration was intended, however, the evidence presented does not prove that the Oath or Declaration was actually filed. Prima Facie evidence of the March 24, 1999 could however exist in the date stamped post card receipt noted on page two of the transmittal included with the filing on that date. Without such evidence, the reduction pursuant to 37 CFR 1.704(c)(10) is proper and the patent term adjustment indicated in the patent is properly reflected.

The Office acknowledges the submission of the required fee of \$200.00 set forth in 37 CFR 1.18(e).

Telephone inquiries specific to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

A handwritten signature in cursive script, reading "Patricia Faison-Ball". The signature is written in black ink and is positioned above the printed name and title.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions



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OFFICE OF PETITIONS

FISH & RICHARDSON P.C. (BO)
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

In re Patent No. 7,799,535
Issued: September 21, 2010
Application No. 09/207,649
Filed: December 8, 1998
Attorney Docket No. **17481-0004001**

:DECISION ON REQUEST
: FOR RECONSIDERATION OF
: PATENT TERM ADJUSTMENT
: AND
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the RESPONSE TO DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT filed January 14, 2011, requesting that the patent term adjustment determination under 35 U.S.C. § 154(b) be changed from 117 days to 159 days.

The application for patent term adjustment is **GRANTED**.

On September 21, 2010, the above-identified application matured into U.S. Patent No. 7,799,535 with a revised patent term adjustment of 117 days. On November 22, 2010, patentees timely submitted an application for patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 159 days. The reduction in question, after the mailing of the Notice of Allowance was an OATH OR DECLARATION. Patentee disputed the reduction of 42 days for applicant delay and argued that Patentee complied with the Examiner's request and submitted the requested courtesy copy of the originally filed oath or declaration, missing from the Office's file (though it had been submitted in a timely manner during prosecution of the application). Therefore, Patentee respectfully submitted that the post-allowance submission should not be considered a failure to engage in reasonable efforts to conclude prosecution of the application as outlined in 37 C.F.R. § 1.704(c)(10).

The reduction of 42 days has been found to be incorrect. A review of the application file reveals that, as stated by applicants, their response to the Notice to File Missing Parts of Application mailed January 25, 1999, was filed March 24, 1999. While a review of the application file does not reveal that the oath or declaration purportedly filed March 24, 2009 was received, the postcard receipt with a PTO date stamp is prima

facie evidence of receipt of the oath or declaration on March 24, 2009, prior to the mailing of the Notice of Allowance and Notice of Allowability on May 12, 2010.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is one hundred fifty-nine (159) days.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e) with the previously filed petition on November 22, 2010. No additional fees are required.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by ONE HUNDRED FIFTY-NINE (159) days.

Telephone inquiries specific to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

A handwritten signature in black ink that reads "Patricia Faison-Ball". The signature is written in a cursive, flowing style.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

DRAFT
UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,799,535 B1

DATED : September 21, 2010

INVENTOR(S) : Susan Lindquist

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (117) days

Delete the phrase "by 117 days" and insert – by 159 days--



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Arnold & Porter LLP (24126)
Attn: SV Docketing Dept.
1400 Page Mill Road
Palo Alto CA 94304

MAILED
MAR 16 2011
OFFICE OF PETITIONS

In re Application of	:	
Hellman	:	
Application No. 09/208,649	:	DECISION
Filed: December 10, 1998	:	
Attorney Docket No. GNE-0329 US	:	
For: Treatment With ANTI-ErbB2 Antibodies	:	

The above-identified application has been forwarded to the undersigned for consideration a petition for patent term extension entitled "Petition to the Director under 37 CFR 1.81(a) or 37 CFR 1.183" received on May 27, 2010.

The petition is dismissed.

Background

Petitioner notes that the above-identified application was filed on December 10, 1998, and allowed on December 18, 2009, but issuance was delayed due to two suspensions in prosecution for a potential interference. Petitioner states that the USPTO failed to provide patent term extension for the two periods of suspension in the Notice of Allowance. Petitioner notes that the application was filed on December 10, 1998 and is eligible for patent term extension under 35 U.S.C. 154 and 37 CFR 1.701.

Petitioner asserts that the application is entitled to 876 days of patent term extension or alternatively one year of patent term extension in accordance with 37 CFR 1.701. In the alternative, Petitioner asserts under 37 CFR 1.183, that the requirements in 37 CFR 1.701(c)(1) should be waived because the requirements are not statutory requirements for patent term extension and that justice requires waive of the rule to award Petitioner 876 days or alternatively one year of patent term extension.

Petitioner asserts that 37 CFR 1.701(a)(1) is an improper rule. Petitioner asserts that the Office has limited a patentee's right to obtain patent term extension to circumstances where (i) an interference was declared or (ii) prosecution of an application was suspended by the Office due to

an interference proceeding not involving the application. Petitioner asserts that these conditions are not imposed by the statute.

Petitioner asserts that the application was suspended by the Office on March 27, 2002 due to a potential interference for a period of six months, however a Non-Final Office Action was not mailed until August 12, 2003, therefore the application was suspended for a period of 503 days.

Petitioner asserts that the application was suspended for a second time by the Office on February 9, 2005 due to a potential interference for a period of six months, however a Non-Final Office Action was not mailed until February 17, 2006, therefore the application was suspended for a period of 373 days.

Therefore Petitioner asserts that the petition under 37 CFR 1.181 should be granted giving Petitioner (i) 876 days of patent term extension or alternatively (ii) one year of patent term extension. Alternatively, Petitioner asserts that subject to 37 CFR 1.183, the requirements of 37 CFR 1.701 should be waived and petitioner should be awarded (i) 876 days of patent term extension or alternatively (ii) one year of patent term extension.

Petitioner argues that the rule (37 CFR 1.701(c)(1)) is inconsistent with MPEP 2300. Petitioner argues that a narrowing of § 154(b)(1) is inconsistent with MPEP Chapter 2300, entitled Interference Proceedings. Petitioner asserts that Chapter 2300 makes it clear that the identification of a potential interference by an examiner is part of an interference proceeding. Petitioner asserts that MPEP 2301 provides that every Technology Center as at least one Interference Practice Specialist who must be consulted when suggesting an interference to the Board of Patent Appeals and Interferences, who may consult with the administrative patent judges that declare interferences. Petitioner asserts that the Interference Practice Specialist must approve any referral of a suggested interference to the Board. Petitioner asserts that from reading Chapter 2300 of the MPEP entitled Interference Proceedings, it is clear that the Office considers an Examiner's identification of a possible interference and consultation with an Interference Practice Specialist who must approve any referral of a suggested interference to the BPAI.

Petitioner asserts that the Office first suspended the application on March 27, 2002 and suspended the application a second time on February 9, 2005, which activities come under Chapter 2300 of the MPEP, thus there is no justification for denying patent term extension for the above identified application.

Petitioner argues that the delays are attributable to a suspension for action due to a potential interference should be considered part of an interference proceeding. The delays were not the fault of the applicant and it would be inequitable to not grant patent term extension. Petitioner argues that based on the current calculation the patent would run through December 12, 2017 and if the application had been filed prior to June 8, 1995, the patent would have a 17 year patent term and if the application had been filed on or after May 29, 2000, then the application would have 3,768 days of patent term extension. Thus under the current scenario the patent will expire approximately 4 or 10 years earlier than the other two regimes. Petitioner argues that it is unjust and inequitable to penalize applications filed in a certain time period in an arbitrary manner, just

because the law has been changed incrementally, and because unintended consequences were not properly considered at the time that statutory changes were put into effect. Petitioner asserts that justice requires that Petitioner be awarded a patent term extension of 876 days or one year as provided by former 35 USC 154(b).

On December 10, 1998, the above identified application was received by the Office.

On March 27, 2002, a first letter of suspension of action for a period of 6 months due to a potential interference was mailed by the Office.

On August 12, 2003, a Non-Final Office Action was mailed by the Office.

On February 9, 2005, a second letter of suspension of action for a period of 6 months due to a potential interference was mailed by the Office.

On February 17, 2006, a Non-Final Office Action was mailed by the Office.

On April 2, 2010, a Notice of Allowance and Fee(s) Due notice was mailed by the Office.

Applicable Statutes and Regulation

35 U.S.C. 135 Interferences.

(a) Whenever an application is made for a patent which, in the opinion of the Director, would interfere with any pending application, or with any unexpired patent, an interference may be declared and the Director shall give notice of such declaration to the applicants, or applicant and patentee, as the case may be. The Board of Patent Appeals and Interferences shall determine questions of priority of the inventions and may determine questions of patentability. Any final decision, if adverse to the claim of an applicant, shall constitute the final refusal by the Patent and Trademark Office of the claims involved, and the Director may issue a patent to the applicant who is adjudged the prior inventor. A final judgment adverse to a patentee from which no appeal or other review has been or can be taken or had shall constitute cancellation of the claims involved in the patent, and notice of such cancellation shall be endorsed on copies of the patent distributed after such cancellation by the Patent and Trademark Office. . . .

35 U.S.C. 154. Contents and term of patent (in effect on June 8, 1995)

(b) TERM EXTENSION.-

(1) INTERFERENCE DELAY OR SECRECY ORDERS.-If the issue of an original patent is delayed due to a proceeding under section 135(a) of this title, or because the application for patent is placed under an order pursuant to section 181 of this title, the term of the patent shall be extended for the period of delay, but in no case more than 5

years.

(2) **EXTENSION FOR APPELLATE REVIEW.**-If the issue of a patent is delayed due to appellate review by the Board of Patent Appeals and Interferences or by a Federal court and the patent is issued pursuant to a decision in the review reversing an adverse determination of patentability, the term of the patent shall be extended for a period of time but in no case more than 5 years. A patent shall not be eligible for extension under this paragraph if it is subject to a terminal disclaimer due to the issue of another patent claiming subject matter that is not patentably distinct from that under appellate review.

37 CFR 1.701 Extension of patent term due to examination delay under the Uruguay Round Agreements Act (original applications, other than designs, filed on or after June 8, 1995, and before May 29, 2000).

(a) A patent, other than for designs, issued on an application filed on or after June 8, 1995, is entitled to extension of the patent term if the issuance of the patent was delayed due to:

(1) Interference proceedings under 35 U.S.C. 135(a); and/or

(2) The application being placed under a secrecy order under 35 U.S.C. 181; and/or

(3) Appellate review by the Board of Patent Appeals and Interferences or by a Federal court under 35 U.S.C. 141 or 145, if the patent was issued pursuant to a decision in the review reversing an adverse determination of patentability and if the patent is not subject to a terminal disclaimer due to the issuance of another patent claiming subject matter that is not patentably distinct from that under appellate review. If an application is remanded by a panel of the Board of Patent Appeals and Interferences and the remand is the last action by a panel of the Board of Patent Appeals and Interferences prior to the mailing of a notice of allowance under 35 U.S.C. 151 in the application, the remand shall be considered a decision in the review reversing an adverse determination of patentability as that phrase is used in 35 U.S.C. 154(b)(2) as amended by section 532(a) of the Uruguay Round Agreements Act, Public Law 103-465, 108 Stat. 4809, 4983-85 (1994), and a final decision in favor of the applicant under paragraph (c)(3) of this section. A remand by a panel of the Board of Patent Appeals and Interferences shall not be considered a decision in the review reversing an adverse determination of patentability as provided in this paragraph if there is filed a request for continued examination under 35 U.S.C. 132(b) that was not first preceded by the mailing, after such remand, of at least one of an action under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151.

(b) The term of a patent entitled to extension under paragraph (a) of this section shall be extended for the sum of the periods of delay calculated under paragraphs (c)(1), (c)(2), (c)(3) and (d) of this section, to the extent that these periods are not overlapping, up to a maximum of five years. The extension will run from the expiration date of the patent.

(c)(1) The period of delay under paragraph (a)(1) of this section for an application is the sum of the following periods, to the extent that the periods are not overlapping:

(i) With respect to each interference in which the application was involved, the number of days, if any, in the period beginning on the date the interference was declared or redeclared to involve the application in the interference and ending on the date that the interference was terminated with respect to the application; and

(ii) The number of days, if any, in the period beginning on the date prosecution in the application was suspended by the Patent and Trademark Office due to interference proceedings

under 35 U.S.C. 135(a) not involving the application and ending on the date of the termination of the suspension.

(2) The period of delay under paragraph (a)(2) of this section for an application is the sum of the following periods, to the extent that the periods are not overlapping:

(i) The number of days, if any, the application was maintained in a sealed condition under 35 U.S.C. 181;

(ii) The number of days, if any, in the period beginning on the date of mailing of an examiner's answer under § 41.39 of this title in the application under secrecy order and ending on the date the secrecy order and any renewal thereof was removed;

(iii) The number of days, if any, in the period beginning on the date applicant was notified that an interference would be declared but for the secrecy order and ending on the date the secrecy order and any renewal thereof was removed; and

(iv) The number of days, if any, in the period beginning on the date of notification under § 5.3(c) and ending on the date of mailing of the notice of allowance under § 1.311.

(3) The period of delay under paragraph (a)(3) of this section is the sum of the number of days, if any, in the period beginning on the date on which an appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and ending on the date of a final decision in favor of the applicant by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145.

(d) The period of delay set forth in paragraph (c)(3) shall be reduced by:

(1) Any time during the period of appellate review that occurred before three years from the filing of the first national application for patent presented for examination; and

(2) Any time during the period of appellate review, as determined by the Director, during which the applicant for patent did not act with due diligence. In determining the due diligence of an applicant, the Director may examine the facts and circumstances of the applicant's actions during the period of appellate review to determine whether the applicant exhibited that degree of timeliness as may reasonably be expected from, and which is ordinarily exercised by, a person during a period of appellate review.

(e) The provisions of this section apply only to original patents, except for design patents, issued on applications filed on or after June 8, 1995, and before May 29, 2000.

Opinion

The patent statute only permits extension of patent term based on very specific criteria. The Office has no authority to grant any extension or adjustment of the term due to administrative delays except as authorized by 35 U.S.C. § 154. 35 U.S.C. § 154 provides for patent term extension for appellate review, interference and secrecy order delays in utility and plant applications filed on or after June 8, 1995, and, as amended by the "American Inventors Protection Act of 1999," enacted November 29, 1999, as part of Public Law 106-113, for other specifically defined administrative delays in utility and plant applications filed on or after May 29, 2000.

The above-identified application was filed on December 10, 1998. Accordingly it is entitled to patent term extension based upon the conditions in 35 U.S.C. § 154(b), in effect on June 8, 1995. The provisions of 35 U.S.C. § 154(b) in effect on May 29, 2000 do not apply, because the amended version of 35 U.S.C. § 154(b) only applies to applications filed on or after May 29, 2000. Pursuant to 35 U.S.C. § 154(b), in effect on June 8, 1995, an applicant can receive patent term extension only if there was an appellate review, interference or a secrecy order delays as set forth in the statute.

Petitioner's assertion that the application is entitled to patent term extension under 37 CFR 1.701 and 37 CFR 1.181 is not persuasive, as the rule (37 CFR 1.701(c)) requires that an interference must have been declared to earn patent term extension pursuant to 37 CFR 1.701. According to 37 CFR 1.701(c)(1)(i), an application is entitled to patent term extension for the number of days, in the period beginning on the date the interference was declared to involve the application in the interference and ending on the date that the interference was terminated with respect to the application. An interference was not declared in the above-identified application. According to 37 CFR 1.701 (c)(1)(ii), an application is entitled to patent term extension for the number of days, in the period beginning on the date prosecution in the application was suspended by the Office due to interference proceedings under 35 U.S.C. 135(a) not involving the application and ending on the date of the termination of the suspension. The application was suspended due to a potential interference, not due to interference proceedings in another application.

Petitioner's assertion that the statute (§ 154) and rule (§ 1.701) should be read broadly and given great interpretational weight is not persuasive. With respect to petitioner's argument that the Office would like to distinguish between a suspension to await the out come of an interference and a suspension for a potential interference to, in order to implement 35 U.S.C. 154(b) (in effect between June 8, 1995 and May 28, 2000), the Office promulgated 37 CFR 1.701(c)(1), which, consistent with the statute, requires an interference proceeding under 35 U.S.C. 135(a) to be eligible for patent term extension. In accordance with § 135(a), an interference may be declared by the BPAI. Petitioner's assertion that the statute (§ 135) and rule (§ 1.701) do not require such a reading and should be read to include delays from actual and from potential proceedings is not persuasive. In accordance with 35 U.S.C. 154 and 35 U.S.C. 135, patent term extension under the post GATT and pre AIPA statute only permits extension for the delay due to a proceeding under 35 U.S.C. § 135(a) and a proceeding begins when the interference is declared and ends with the final decision. Petitioner asserts that fairness dictates that the Office must grant patent term extension for suspensions by the Examiner to determine if an interference should be set up. Unfortunately, the statute states that the BPAI can declare an interference. The Office may only grant an extension as provided for by the statute.

Petitioner's assertion that 37 CFR 1.701(c)(1) is inconsistent with chapter 2300 of the MPEP is not persuasive. While the heading of Chapter 2300 is Interference Proceedings, the text in the Chapter does not state that a suspension by the Examiner for a potential interference is part of an interference proceeding. Additionally, the portions in the MPEP relied on by Petitioner in his arguments are from MPEP Eighth edition Rev. 4 or later, which was published in October 2005 and is a later version of the MPEP. The Examiner relied on MPEP Eighth edition and Eighth edition Rev. 2 respectively, when the application was suspended, which only suggested that an

Examiner should consult with an Interference Practice Specialist to confirm the existence of interfering subject matter and it does not state that Interference Practice Specialist consult with administrative patent judges. Assuming for the sake of the argument Petitioner's argument concerning the MPEP, the MPEP is a guidance document and does not does not outweigh the rule or the law, which both require an interference proceeding by the BPAI.

Petitioner's assertion that it is inequitable for the application to not get patent term extension under 35 U.S.C. 154 because if the application had been filed prior to June 8, 1995 or after May 28, 2000, it would have a longer term is not persuasive.

Congress altered this scheme in 1994. The Uruguay Round Agreements Act (the "GATT legislation") increased patent terms from 17 years to 20 years, but changed the calculation of the terms so that they ended on a date twenty years after the earliest effective *filing date* of the patent application (not from the date of issuance). Pub. L. No. 103-465, § 532, 108 Stat. 4983 (1994) (codified as amended at 35 U.S.C. § 154). As a result of these changes, patent terms were affected by the amount of time that elapsed during prosecution of a patent. Accordingly, the GATT legislation also provided enumerated "term extensions" that could extend the term of a patent based on certain delays that might occur. Congress amended this scheme again in 1999 with the American Inventors Protection Act ("AIPA"). Pub. L. No. 106-113, §§ 4402-4405, 113 Stat. 1501, 1501A (1999) (codified as amended at 35 U.S.C. § 154). The AIPA provided additional grounds for term extensions that were not included in the GATT legislation. § 4402.¹

The effective date provision (§ 4405) in the legislation clearly states that the amendments to 35 U.S.C. § 154 apply to applications filed on or after the date that is 6 months after the date of enactment, i.e., May 29, 2000. This provision does not include applications that were filed prior to the date of enactment or even immediately after the date of enactment, but applications that were filed on or after the date that is 6 months after the date of enactment, see *Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term*, 65 FR 56366 (Sept. 18, 2000) 1239 Off Gaz. Pat. Office Notices 14 (Oct. 3, 2000).²

Petitioner's argument pursuant to 37 CFR 1.183 that justice requires the provisions of 37 CFR 1.701(c) be waived is not persuasive. The Office may only grant an extension as provided for by the statute. The statutes requires an interference proceeding, which requires that the BPAI declare an interference and unfortunately in this instance the BPAI did not declare an interference. Additionally, with respect to Petitioner's request for 876 days or one year of patent term extension, the application was only suspended for a total of twelve months. The delay in mailing an Office action after the suspension is regretted, but Petitioner could have submitted a Status Inquiry as suggested in the Letter of Suspension. The delay in the allowance and issuance is regrettable, but the Office has no authority to grant an extension or adjustment of the term due to administrative delays except as authorized by 35 U.S.C. § 154(b).

¹ *Sykes v. Dudas*, 573 F.Supp 2d 191, 89 USPQ2d 1423 (D.D.C.2008).

² *Sykes v. Dudas*, 573 F.Supp 2d 191, 89 USPQ2d 1423 (D.D.C.2008).

Although prosecution was twice suspended in the above-identified application, the suspensions were due to a potential interference either with or involving one or more other applications. The suspensions were not for the reason that the subject application was involved in an interference, or to await the result of an interference proceeding in another application. As a result, the provisions of 37 CFR 1.701(c)(1)(ii) do not apply because this section applies to suspensions by the "Office due to interference proceedings under 35 U.S.C. 135(a) not involving the application," and in this instance there were no such other interference proceedings. Therefore, Petitioner's argument that he is entitled to 876 days or alternatively one year of patent term extension for the two periods of suspension under 37 CFR 1.701(a) is not persuasive. The application is entitled to zero (0) days of patent term extension under 37 CFR 1.701(a).

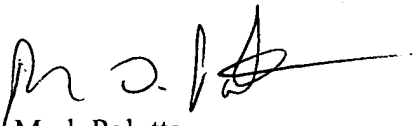
The Office has no authority to grant an extension of the term due to administrative delays except as authorized by 35 U.S.C. § 154.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition. See 35 U.S.C. § 41 (a)(7). The required \$400 fee for the petition under 37 CFR 1.183 has been paid.

Decision

For the reasons stated herein, patent term extension in this case cannot be granted under 35 U.S.C. § 154(b) and 37 CFR §§ 1.181, 1.183 and 1.701. Therefore, the petition is dismissed.

Telephone inquiries with regard to this communication should be directed to Mark O. Polutta at (571) 272-7709.



Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: MPEP Chapter 2300, pages 2300-1 – 2300-3

Chapter 2300 Interference Proceedings

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2300.01 Introduction

35 U.S.C. 135. *Interferences.*

(a) Whenever an application is made for a patent which, in the opinion of the Director, would interfere with any pending application, or with any unexpired patent, an interference may be declared and the Director shall give notice of such declaration to the applicants, or applicant and patentee, as the case may be. The Board of Patent Appeals and Interferences shall determine questions of priority of the inventions and may determine questions of patentability. Any final decision, if adverse to the claim of an applicant, shall constitute the final refusal by the Patent and Trademark Office of the claims involved, and the Director may issue a patent to the applicant who is adjudged the prior inventor. A final judgment adverse to a patentee from which no appeal or other review has been or can be taken or had shall constitute cancellation of the claims involved in the patent, and notice of such cancellation shall be endorsed on copies of the patent distributed after such cancellation by the Patent and Trademark Office.

(b)(1) A claim which is the same as, or for the same or substantially the same subject matter as, a claim of an issued patent may not be made in any application unless such a claim is made prior to one year from the date on which the patent was granted.

(2) A claim which is the same as, or for the same or substantially the same subject matter as, a claim of an application published under section 122(b) of this title may be made in an application filed after the application is published only if the claim is made before 1 year after the date on which the application is published.

(c) Any agreement or understanding between parties to an interference, including any collateral agreements referred to therein, made in connection with or in contemplation of the termination of the interference, shall be in writing and a true copy thereof filed in the Patent and Trademark Office before the termi-

nation of the interference as between the said parties to the agreement or understanding. If any party filing the same so requests, the copy shall be kept separate from the file of the interference, and made available only to Government agencies on written request, or to any person on a showing of good cause. Failure to file the copy of such agreement or understanding shall render permanently unenforceable such agreement or understanding and any patent of such parties involved in the interference or any patent subsequently issued on any application of such parties so involved. The Director may, however, on a showing of good cause for failure to file within the time prescribed, permit the filing of the agreement or understanding during the six-month period subsequent to the termination of the interference as between the parties to the agreement or understanding.

The Director shall give notice to the parties or their attorneys of record, a reasonable time prior to said termination, of the filing requirement of this section. If the Director gives such notice at a later time, irrespective of the right to file such agreement or understanding within the six-month period on a showing of good cause, the parties may file such agreement or understanding within sixty days of the receipt of such notice.

Any discretionary action of the Director under this subsection shall be reviewable under section 10 of the Administrative Procedure Act.

(d) Parties to a patent interference, within such time as may be specified by the Director by regulation, may determine such contest or any aspect thereof by arbitration. Such arbitration shall be governed by the provisions of title 9 to the extent such title is not inconsistent with this section. The parties shall give notice of any arbitration award to the Director, and such award shall, as between the parties to the arbitration, be dispositive of the issues to which it relates. The arbitration award shall be unenforceable until such notice is given. Nothing in this subsection shall preclude the Director from determining patentability of the invention involved in the interference.

This chapter is designed to aid examiners in identifying potential interferences and in preparing to discuss potential interferences with Interference Practice Specialists and with the Board of Patent Appeals and Interferences. Since each interference is unique and must be declared and decided on its own facts, any given interference may have features that vary significantly from those discussed in this chapter.

Interferences are quite rare during patent prosecution. At present, fewer than one percent of all applications become involved in interferences. Consequently, the examiner should focus on identifying when an interference is necessary, not on the actual mechanics of proposing an interference. Each Technology Center (TC) has at least one Interference Practice Specialist (IPS), who has received special training in preparing cases for an interference. The examiner should consult with the IPS to ensure that an interference exists and

that the examiner has satisfied the requirements for proposing an interference. See MPEP § 2309 through § 2309.02 regarding procedures for preparation of interference papers by the examiner.

An interference is a proceeding, conducted before the Board of Patent Appeals and Interferences (Board), to determine priority of invention between a pending application and one or more pending applications and/or one or more unexpired patents. Jurisdiction to decide an interference is granted by 35 U.S.C. 135(a), which also grants the Board discretion to determine questions of patentability in the proceeding.

The United States Patent and Trademark Office (USPTO) does not have jurisdiction to conduct interferences which involve only patents, i.e., which do not involve at least one pending application. Jurisdiction over those proceedings is conferred on the Federal courts by 35 U.S.C. 291.

Since the Board is the body which has jurisdiction over interferences conducted in the USPTO, the examiner's involvement in the proceeding, once the interference has been declared, is minimal. This chapter therefore is generally limited to information concerning those aspects of an interference, including preliminary and subsequent proceedings, which are within the jurisdiction of, or are relevant to, the examiner. It does not include the procedure which is followed before the Board during the interference. Persons seeking information concerning that procedure should consult the text of the pertinent rules, 37 CFR subpart E, the notices of rulemaking and accompanying comments adopting those rules. These notices and comments, as well as other notices pertinent to current interference practice and procedure, are as follows:

Final Rule, 49 FR 48416 (Dec. 12, 1984), 1050 O.G. 385 (Jan. 29, 1985);

Correction Notice, 50 FR 23122 (May 31, 1985), 1059 O.G. 27 (Oct. 22, 1985);

Notices of Rulemaking: 52 FR 13833 (Apr. 27, 1987), 1080 O.G. 15 (July 14, 1987);

53 FR 23728 (June 23, 1988), 1092 O.G. 26 (July 12, 1988);

54 FR 29548 (July 13, 1989), 1105 O.G. 5 (Aug. 1, 1989);

56 FR 42528 (Aug. 28, 1991)*, 1136 O.G. 40 (Mar. 17, 1992);

*corrected, 56 FR 46823 (Sep. 16, 1991)
58 FR 49432 (Sep. 23, 1993), 1155 O.G. 65 (Oct. 19, 1993);
60 FR 14488 (Mar. 17, 1995), 1173 O.G. 36 (Apr. 11, 1995);
64 FR 12901 (Mar. 16, 1999);
65 FR 56792 (Sept. 20, 2000), 1239 O.G. 125 (Oct. 17, 2000);
65 FR 70489 (Nov. 24, 2000), 1241 O.G. 68 (Dec. 19, 2000).

Notices: *Access to Interference Settlement Agreements by Government Agencies*, 972 O.G. 2 (July 4, 1978); *Interference Practice: Response to Order to Show Cause Under 37 CFR 1.640*, 1074 O.G. 4 (Jan. 6, 1987); *Interference Practice: Fraud and Inequitable Conduct Allegations*, 1074 O.G. 42 (Jan. 27, 1987); *Interferences - Preliminary Motions for Judgment*, 1118 O.G. 19 (Sep. 11, 1990); *Consideration of Fraud and Inequitable Conduct in Patent Interference Cases*, 1133 O.G. 21 (Dec. 10, 1991); *Interference Practice: Consideration of Fraud and Inequitable Conduct (Id.)*; *Interference Practice: Matters Relating to Belated Preliminary Motions*, 1144 O.G. 8 (Nov. 3, 1992); *Availability of Interference Files and Interference Related Application and Patent Files*, 1184 O.G. 15 (Mar. 5, 1996); *Admissibility of Electronic Records in Interferences*, 1208 O.G. 35 (Mar. 10, 1998); *Publication of Opinions and Orders Entered by the Board of Patent Appeals and Interferences*, 1217 O.G. 17 (Dec. 1, 1998); *Interference Practice - Interference Rules Which Require a Party to "Show the Patentability" of a Claim*, 1217 O.G. 17 (Dec. 1, 1998); *Interference Practice - New Procedures for Handling Interference Cases at the Board of Patent Appeals and Interferences*, 1217 O.G. 18 (Dec. 1, 1998).

The text of the notices listed above is available on the USPTO web page at www.uspto.gov.

2300.02 Provoking an Interference

An interference may be provoked in several different ways, depending upon the circumstances. Each of these is covered in detail in the subsequent sections.

(A) An interference between pending applications may be requested by an applicant who has become aware of another application which may be claiming the same invention. See MPEP § 2303 and § 2304. If the applications are not claiming the same patentable

invention, it may be necessary for the examiner to suggest a claim in one or more of the applications. See MPEP § 2305.

(B) An interference between a pending application and a patent is normally provoked by the applicant. See MPEP § 2306 - § 2308.

2301.01 Preliminaries to an Interference

An interference is an expensive and time-consuming proceeding. Yet, it may be necessary to determine priority when two applicants, or an applicant and a patentee, are claiming the same patentable subject matter and their filing dates are so close together that there is a reasonable possibility that the first to file is not the first inventor. The fact that an application is a reissue application does not preclude it from being involved in an interference.

The greatest care must therefore be exercised both in the search for interfering applications and in determining whether an interference should be declared. Also the claims in recently issued patents, especially those used as references against the application claims, should be considered for possible interference.

The question of the propriety of proposing an interference in any given case is affected by so many factors that a discussion of all of them here is impracticable. Some circumstances which render an interference unnecessary are hereafter noted, but each instance must be carefully considered if serious errors are to be avoided.

In determining whether an interference is necessary, a claim should be given the broadest interpretation which it reasonably will support, bearing in mind the following general principles:

- (A) The interpretation should not be strained;
- (B) Express limitations in the claim should not be ignored nor should limitations be read therein;
- (C) Before a claim (unless it is a patented claim) is considered as the basis for the count of an interference, the claim should be allowable and in good form. No pending claim which is indefinite, ambiguous or otherwise defective should be the basis for a count of an interference;
- (D) A claim copied from a patent, if ambiguous, should be interpreted in the light of the patent in which it originated for purposes of determining whether a party has a right to copy a claim;

(E) An interference will not normally be instituted between cases which have the same inventive entity, or a common assignee. See 37 CFR 1.602(a). Such cases should be treated as set forth in MPEP § 804 *et seq.* Also see MPEP § 2302; and

(F) If doubts exist as to whether there is an interference, an interference should not be declared.

2301.01(a) In Different Technology Centers

If there is a prospective interference between applications assigned to different Technology Centers (TCs), the applications should be transferred to the TC where the controlling interfering claim would be classified. After termination of the interference, further transfer may be necessary depending upon the outcome.

2301.01(b) The Interference Search

The search for interfering applications must not be limited to the class or subclass in which the application is classified, but must be extended to all classes, in and out of the TC, which it has been necessary to search in the examination of the application. See MPEP § 1302.08.

Moreover, the possibility of the existence of interfering applications should be kept in mind throughout the prosecution. Where the examiner at any time finds that two or more applications are claiming the same invention and the examiner does not deem it expedient to institute interference proceedings at that time, the examiner should make a record of the possible interference on the face of the file wrapper in the space reserved for class and subclass designations. Such notations, however, if made on the file wrapper or drawings, must not be such as to give any hint of the date or identity of a supposedly interfering application. Application numbers or filing dates of conflicting applications must never be placed upon drawings or file wrappers. A book of "Prospective Interferences" should be maintained containing complete data concerning possible interferences and the page and line of this book should be referred to on the respective file wrappers or drawings. For future reference, this book may include notes as to why prospective interferences were not declared.

In determining whether to propose an interference, the primary examiner must be of the opinion that an

interference exists. The examiner should consult with an Interference Practice Specialist to confirm the existence of interfering subject matter. See MPEP § 2309.

The TC Director should be consulted if it is believed that the circumstances justify an interference between applications neither of which is ready for allowance.

2301.02 Definitions

37 CFR 1.601. Scope of rules, definitions.

This subpart governs the procedure in patent interferences in the Patent and Trademark Office. This subpart shall be construed to secure the just, speedy, and inexpensive determination of every interference. For the meaning of terms in the Federal Rules of Evidence as applied to interferences, see § 1.671(c). Unless otherwise clear from the context, the following definitions apply to this subpart:

(a) *Additional discovery* is discovery to which a party may be entitled under § 1.687 in addition to discovery to which the party is entitled as a matter of right under § 1.673(a) and (b).

(b) *Affidavit* means affidavit, declaration under § 1.68, or statutory declaration under 28 U.S.C. § 1746. A transcript of an *ex parte* deposition may be used as an affidavit.

(c) *Board* means the Board of Patent Appeals and Interferences.

(d) *Case-in-chief* means that portion of a party's case where the party has the burden of going forward with evidence.

(e) *Case-in-rebuttal* means that portion of a party's case where the party presents evidence in rebuttal to the case-in-chief of another party.

(f) A *count* defines the interfering subject matter between two or more applications or between one or more applications and one or more patents. When there is more than one count, each count shall define a separate patentable invention. Any claim of an application or patent that is designated to correspond to a count is a claim involved in the interference within the meaning of 35 U.S.C. 135(a). A claim of a patent or application that is designated to correspond to a count and is identical to the count is said to correspond exactly to the count. A claim of a patent or application that is designated to correspond to a count but is not identical to the count is said to correspond substantially to the count. When a count is broader in scope than all claims which correspond to the count, the count is a phantom count.

(g) The *effective filing date* of an application is the filing date of an earlier application, benefit of which is accorded to the application under 35 U.S.C. 119, 120, 121, or 365 or, if no benefit is accorded, the filing date of the application. The effective filing date of a patent is the filing date of an earlier application, benefit of which is accorded to the patent under 35 U.S.C. 119, 120, 121, or 365 or, if no benefit is accorded, the filing date of the application which issued as the patent.

(h) In the case of an application, *filing date* means the filing date assigned to the application. In the case of a patent, "filing



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6225991 :
Issue Date: May 1, 2001 :
Application No. 09209241 :DECISION GRANTING PETITION
Filed: December 10, 1998 :UNDER 37 CFR 1.378(c)
Attorney Docket No. KAJ-1P1D3 :

This is a decision on the electronic petition, filed October 4, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 4, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6225991	2001-05-01	09209241	1998-12-10	KAJ-1P1D3

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input checked="" type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Kendal M. Sheets/	Date (YYYY-MM-DD)	2010-09-30
Name	Kendal M. Sheets	Registration Number	47077
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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MAY 31 2011
OFFICE OF PETITIONS

EDWARDS LIFESCIENCES CORPORATION
LEGAL DEPARTMENT
ONE EDWARDS WAY
IRVINE, CA 92614

In re Patent No. 6,309,382	:	
Issue Date: October 30, 2001	:	
Application No. 09/209,558	:	NOTICE UNDER 37 CFR 1.28(C)
Filed: December 11, 1998	:	
Attorney Docket No. CSS-6047	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7253.

/Monica A. Graves/
Petitions Examiner, Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

OCT 26 2010

OFFICE OF PETITIONS

DICKSTEIN SHAPIRO LLP
1825 EYE STREET NW
WASHINGTON DC 20006

In re Patent No. 7,570,282 :
Michael Kaplinsky :
Issue Date: August 4, 2009 : DECISION ON
Application No. 09/209,982 : PATENT TERM ADJUSTMENT
Filed: December 9, 1998 :
Attorney Docket No. M4065.0858/P858 :

This is a decision on the "REPLY TO DECISION DISMISSING REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT", filed May 21, 2010.

The application for patent term adjustment is **DISMISSED**.

On April 26, 2010, the Office mailed a "DECISION ON REQUEST FOR RECALCULATION of PATENT TERM ADJUSTMENT IN VIEW OF WYETH". The decision stated that the request was ineligible for consideration. With the instant request for reconsideration, Patentee argues that because an RCE was filed on October 31, 2005 (i.e. after May 29, 2000), the patent is eligible for patent term adjustment.


The Patent Term Guarantee Act of 1999 amended 35 U.S.C. § 154 to include § 154(b), which provides for adjustment of patent term due to examination delay. The provisions of § 154(b) relate to adjustment of patent term due to administrative delays apply only to original applications, other than designs, filed on or after May 29, 2000. Patentee argues that the instant application is eligible because an RCE was filed after May 29, 2000. Patentee's

argument has been considered, but is not persuasive. As stated in MPEP 2730:

37 CFR 1.702(f) provides that the provisions of 37 CFR 1.702 through 1.705 apply only to original (i.e., non-reissue) applications, except applications for a design patent, filed on or after May 29, 2000, and patents issued on such applications. Since a continued prosecution application (CPA) filed under 37 CFR 1.53(d) is a new (continuing) application, a CPA filed on or after May 29, 2000, and before July 14, 2003, is entitled to the benefits of the patent term adjustment provisions of 35 U.S.C. 154(b) and 37 CFR 1.702 through 1.705. Since a request for continued examination (RCE) filed under 35 U.S.C. 132(b) and 37 CFR 1.114 is not a new application (it is a submission in a previously filed application), filing an RCE in an application filed before May 29, 2000, does **not** cause that application to be entitled to the benefits of the patent term adjustment provisions of 35 U.S.C. 154(b) and 37 CFR 1.702 through 1.705.

Since the filing date of this application, December 9, 1998, is before May 29, 2000, this application is not eligible for patent term adjustment due to examination delay.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Cliff Congo at (571)272-3207.


Anthony Knight
Director
Office of Petitions

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))																												
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Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Caitlin K. Lhommedieu/	Date (YYYY-MM-DD)	2011-01-04
Name	Caitlin K. Lhommedieu	Registration Number	58903
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,374,145	2002-04-16	09/211,091	1998-12-14	2061024-0001

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SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

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www.uspto.gov

In re Patent No. 6374145 :
Issue Date: April 16, 2002 :
Application No. 09211091 :DECISION GRANTING PETITION
Filed: December 14, 1998 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 4154-001000 :

This is a decision on the electronic petition, filed January 5, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 5, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6915083	2005-07-05	09212203	1998-12-15	ZIL-306

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MAINTENANCE FEE (37 CFR 1.20(e)-(g))

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Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Darien K Wallace/	Date (YYYY-MM-DD)	2011-04-16
Name	Darien K. Wallace	Registration Number	53736
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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In re Patent No. 6915083 :
Issue Date: July 5, 2005 :
Application No. 09212203 :DECISION GRANTING PETITION
Filed: December 15, 1998 :UNDER 37 CFR 1.378(c)
Attorney Docket No. ZIL-306 :

This is a decision on the electronic petition, filed April 16, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 16, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
5997556	1999-12-07	09213233	1998-12-17	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input checked="" type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/John N. Coulby/	Date (YYYY-MM-DD)	2012-02-28
Name	John N. Coulby	Registration Number	43565
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

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2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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In re Patent No. 5997556 :
Issue Date: December 7, 1999 :
Application No. 09213233 :DECISION GRANTING PETITION
Filed: December 17, 1998 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 23660-00613 :

This is a decision on the electronic petition, filed February 28, 2012, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 28, 2012. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



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Paper No. 14

Sean M. Casey Co., L.P.A.
P.O. BOX 710
New Albany OH 43054-0710

MAILED

SEP 10 2010

In re Patent No. 6,221,836
Issued: April 24, 2001
Application No. 09/213,968
Filed: December 17, 1998
Attorney Docket No. 1207-003D

OFFICE OF PETITIONS
ON PETITION

This is in response to the "Response to Request for Information" filed November 25, 2009, and the petition under 37 CFR 1.378(b) filed August 28, 2009.

The petition is **dismissed**.

The patent issued April 24, 2001. The 3.5 year maintenance fee could have been paid from April 24, 2004, through October 24, 2004, or with a surcharge, as authorized by 37 CFR 1.20(h), during the period from October 25, 2004, through April 24, 2005. The 3.5 year maintenance fee was not paid; the patent expired at midnight on April 24, 2005.

A petition under 37 CFR 1.378(b) was filed August 28, 2009. In response thereto, a Request for Information was mailed on September 25, 2009. A Response to the Request for Information was filed on November 25, 2009.

A grantable petition under 37 CFR 1.378(b) must be accompanied by a showing to the satisfaction of the Commissioner that the entire delay in paying the required maintenance fee from the due date for the fee until the filing of a grantable petition pursuant to this paragraph was unavoidable. The showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable within the meaning of 37 CFR 1.378(b).

Petitioner must establish that petitioner treated the patent the same as a reasonable and prudent person would treat his or her most important business.

The general standard applied by the Office requires petitioner to establish that petitioner treated the patent the same as a reasonable and prudent person would treat his or her most important business.¹

¹The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard. 35 U.S.C. 41(c)(1) states, "The Commissioner may accept the payment of any maintenance fee . . . at any time . . . if the delay is shown *to the satisfaction of the Commissioner* to have been unavoidable." (emphasis added).

"In the specialized field of patent law, . . . the Commissioner of Patent and Trademarks is primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. His interpretation of those provisions is entitled to considerable deference." Rydeen v. Quigg, 748 F. Supp. 900, 904, 16 U.S.P.Q2d (BNA) 1876 (D.D.C. 1990), aff'd without opinion Rule 36), 937 F.2d 623 (Fed Cir. 1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d agencies' interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) ("if the statute is silent or

However, “[t]he question of whether an applicant’s delay in prosecuting an application was unavoidable [will] be decided on a case-by-case basis, taking all of the facts and circumstances into account.”² Nonawareness of the content of, or misunderstanding of PTO statutes, PTO rules, the MPEP, or the Official Gazette notices does not constitute unavoidable delay.³ The statute requires a “showing” by petitioner, therefore; petitioner has the burden of proof. The decision will be based solely on the written, administrative record in existence. It is not enough that the delay was unavoidable; petitioner must prove that the delay was unavoidable. A petition will not be granted if petitioner provides insufficient evidence to “show” that the delay was unavoidable.

Petitioner is responsible for possessing knowledge of the need to pay maintenance fees and the due dates for such fees, Petitioner is responsible for instituting a reliable docketing system to remind him or her when maintenance fees become due.

Petitioner is responsible for having knowledge of the need to pay maintenance fees and knowing when the fees are due.⁴ The Office has no duty to notify a patentee of the requirement to pay maintenance fees or to notify patentee when a maintenance fee is due.⁵ Even if the Office were required to provide notice to applicant of the existence of maintenance fee requirements, such notice is provided by the patent itself.⁶

ambiguous with respect to the specific issue, the question for the court is whether the agency’s answer is based on a permissible construction of the statute.”))

“The critical phrase ‘unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable’ has remained unchanged since first enacted in 1861.” Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982). The standard for “unavoidable” delay for reinstating a patent is the same as the unavoidable standard for reviving an application. See Ray v. Lehman, 55 F. 3d 606, 608-609, 34 U.S.P.Q.2d (BNA) 1786, 1781 (Fed Cir. 1995) (Citing In re patent No. 4,409,763, 7 U.S.P.Q.2d (BNA) 1798, 1800 (Comm’r Pat. 1990; Smith v. Mossinghoff, 671 F. 2d 533, 538, 213 U.S.P. Q. (BNA) 977 (D.C. Cir. 1982). The court in In re Mattullath, accepted the standard which had been proposed by Commissioner Hall which “requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business.” In re Mattullath, 38 App. D.C. 497, 514-515 (1912) (quoting Ex parte Pratt, 1887 Dec. Comm’r Pat 31, 32-33 (1887)).

²Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (1982).

³See Smith v. Mossinghoff, 671 F. 2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel’s nonawareness of PTO rules does not constitute “unavoidable” delay); Vincent v. Mossinghoff, 1985 U.S. Dist. LEXIS 23119, 13, 230 U.S.P.Q. (BNA) 621 (D.D.C. 1985) (plaintiffs, through their counsel’s action, or their own, must be held responsible for having noted the MPEP section and Official Gazette notices expressly stating that the certified mailing procedures outlined in 37 CFR 1.8(a) do not apply to continuation applications.) (Emphasis added).

⁴Nonawareness of PTO statutes, PTO rules, the MPEP, or Official Gazette notices, which state maintenance fee amounts and dates they are due does not constitute unavoidable delay. See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel’s nonawareness of PTO rules does not constitute “unavoidable” delay); Vincent v. Mossinghoff, 1985 U.S. Dist. LEXIS 23119, 13, 230 U.S.P.Q. (BNA) 621 (D.D.C. 1985) (Plaintiffs, through their counsel’s actions, or their own must be held responsible for having noted the MPEP section and Official Gazette notices expressly stating that the certified mailing procedures outlined in 37 CFR 1.8(a) do not apply to continuation applications.) (Emphasis added).

Petitioner must act as a reasonable and prudent person in relation to his most important business. Upon obtaining the patent, a reasonable and prudent person, in relation to his most important business, would become familiar with the legal requirements of that business, in this case, the requirement to pay maintenance fees. In addition, a reasonable and prudent individual would read the patent itself and thereby become aware of the need to pay maintenance fees and the fact that such fee amounts are sometimes changed by law or regulation.

⁵Congress expressly conditioned §§ 133 and 151 [of the United States Code] on a specific type of notice, while no such notice requirements are written into § 41(c) . . . [T]he Commissioner’s no timely-notice interpretation.” Ray v. Comer, 1994 U.S. Dist.

A reasonable and prudent person, aware of the existence of maintenance fees, would not rely on maintenance fee reminders or on memory to remind him or her when payments would fall due several years in the future. Instead, such an individual would implement a reliable and trustworthy tracking system to keep track of the relevant dates.⁷ The individual would also take steps to ensure that the patent information was correctly entered into the tracking system.

Application of the unavoidable standard to the present facts

By the instant petition and Response to Request for Information, petitioner maintains that the above-cited patent should be reinstated because the delay in paying the 3.5 year maintenance fee and 7.5-year maintenance fee was unavoidable because of the gross negligence and deception of the registered agent charged with paying the maintenance fees. It is noted that the registered agent, Mr. Don Nickey, was a co-inventor named in the above-cited application and is deceased.

At the outset, it is important to note that the fact that petitioner is alleging that Mr. Nickey's gross negligence and deception is the cause of the unavoidable delay in paying the maintenance fees does not relieve petitioner of the burden of establishing that petitioner treated the maintenance of the patent as its most important business. Given the facts at hand, one of the specific questions to be asked is whether, in treating the patent as their most important business, patentees acted reasonably and prudently in their continued reliance on Mr. Nickey to pay the maintenance fees or acted reasonably and prudently in never checking the status of the patent. More specifically, patentees' reliance upon an attorney does not provide

LEXIS 21478, 8-9 (1994), *aff'd on other grounds Ray v. Lehman*, 55 F.3d 606, 34 USPQ2d 1786 (Fed. Cir. 1995) (Citing *Rydeen v. Quigg*, 748 F. Supp. 900, 905 (1990), *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837, 81 L. ed. 2d 694, 104 S. Ct. 2778 (1984)). "The Court concludes as it did in *Rydeen*, that as a constitutional matter, 'plaintiff' was not entitled to any notice beyond publication of the statute." *Id.* at 3 (citing *Rydeen v. Quigg*, 748 F. Supp. at 906, *Texaco v. Short*, 454 U.S. 516, 536, 70 L. Ed. 2d 738, 102 S. Ct. 781 (1982)).

The Patent Office, as a courtesy tries to send maintenance fee reminders and notices of patent expiration to the address of record. However, the failure to receive the reminder notice, and the lack of knowledge of the requirement to pay the maintenance fee, will not shift the burden of monitoring the time for paying a maintenance fee from the patentee to the Office. *See* MPEP 2575, 2540, 2590. Petitioner does not have a right to a personalized notice that this patent will expire if a certain maintenance fee is not paid, as the publication of the statute was sufficient notice. *See Rydeen v. Quigg*, 748 F. Supp. 900, 907 (1990). the ultimate responsibility for keeping track of maintenance fee states lies with the patentee, not the USPTO. Since the mailing of Notices by the Office is completely discretionary and not a requirement imposed by Congress, accepting an argument that failure to receive a Notice is unavoidable delay would result in all delays being unavoidable should the Office discontinue the policy. All petitions could allege non-receipt of the reminder, and therefore all petitions could be granted. This was clearly not the intent of Congress in the creation of the unavoidable standard.

⁶*See Ray v. Lehman*, 55 F.3d 606, 610; 34 USPQ2d 1786, 1789 (Fed. Cir. 1995). The Letters of Patent contain a Maintenance Fee Notice that warns that the patent may be subject to maintenance fees if the application was filed on or after December 12, 1980. While it is unclear as to who was and is in actual possession of the patent, petitioner's failure to read the Notice does not vitiate the Notice, nor does the delay resulting from such failure to read the Notice establish unavoidable delay.

⁷ 37 CFR 1.378(b)(3) precludes acceptance of a late maintenance fee for a patent unless a petitioner can demonstrate that steps were in place to monitor the maintenance fee. The federal Circuit has specifically upheld the validity of this regulation. *Ray v. Lehman*, 55 F.3d 606, 609; 34 USPQ2d (BNA) 1786 (Fed.Cir. 1995). In *Ray v. Lehman*, petitioner claimed that he had not known of the existence of the maintenance fees and therefore had no steps in place to pay such fees. The petitioner therefore argues that the PTO's regulation, 37 CFR 1.37(b)(3), *supra*, arguing that it 'creates a burden that goes well beyond what is reasonably prudent.' We disagree. The PTO's regulation merely sets forth how one is to prove that he was reasonably prudent, i.e., by showing what steps he took to ensure that the maintenance fee would be timely paid, and the steps taken in seeking to reinstate the patent. We do not see these requirements additional to proving unavoidable delay, but as the very elements of unavoidable delay." *Id.*

patentees with an absolute defense, but rather shifts the focus to whether the attorney acted reasonably and prudently.

The "Request for Information" mailed September 25, 2009, required petitioner to show that Mr. Nickey, or his associates, had steps in place for ensuring that the maintenance fee would be timely paid. The response of November 25, 2009, does not make this showing. A positive finding in this respect is necessary to a successful petition under 37 CFR 1.378(b) because, where the record fails to disclose that the agent took reasonable steps, or took no steps, to ensure timely payment of the maintenance fee, 35 U.S.C. 41(c) and 37 CFR 1.378(b)(3) precludes acceptance of the delayed payment of the maintenance fee under 37 CFR 1.378(b). This finding is also material to the disposition of this petition because if Mr. Nickey had no steps in place for ensuring that the maintenance fees would be paid, then patentees' reliance on Mr. Nickey may not be considered reasonable or prudent nor would the patentee be deemed to have treated the maintenance of the patent as its most important business. Obviously, because Mr. Nickey is deceased, petitioner is unable to determine exactly what steps Mr. Nickey had in place to ensure the maintenance of the patent. Notwithstanding, the facts, as set forth by petitioner, seem to suggest that there were no specific steps in place to ensure maintenance of the patent. Rather, the facts seem to demonstrate that the arrangement between Mr. Nickey and petitioner was largely informal. This conclusion is based on the fact that: 1) Mr. Nickey agreed to be chiefly responsible for maintaining the patent--in the absence of a formal written agreement--to further his own interest as a co-inventor and as a favor to petitioner given Mr. Nickey's reputed patent process expertise, and 2) Mr. Nickey agreed to track and pay the maintenance fees in his spare time even after he left the employ of the law firm that prosecuted the patent application and became in-house counsel for a corporation. While there is, on its face, no problem with an informal arrangement to track and pay maintenance fees, petitioner is at a severe disadvantage when circumstances such as those set forth in the petition arise and petitioner must establish that entire delay in paying the maintenance fee was unavoidable and petitioner treated the maintenance of the patent as its most important business.

It is noted that the arrangement between petitioner and Mr. Nickey, relative to the maintenance of the patent, was arguably informal and casual with petitioner seemingly relying on verbal assurances from Mr. Nickey and the substance of the friendship between petitioner and Mr. Nickey as a verification of the continued maintenance of the patent. It is further noted that petitioner relied on Mr. Nickey's assurances without being aware of any exact dates on which Mr. Nickey would forward the maintenance fee to the USPTO or confirming that, in fact, the maintenance fee was paid. Arguably, if the maintenance of this patent was being treated as patentees most important business, rather than simply relying on the friendship between patentee Beale and Mr. Nickey and the reputation of Mr. Nickey, patentee Beale and/or patentee Williamson may have established an express agreement by which the arrangement between Mr. Nickey and patentees would be governed setting forth the process of tracking the maintenance fees, for remitting funds for payment of the maintenance fees, and confirmation that the maintenance fees were paid. In fact, the failure of Mr. Nickey to abide by such an agreement may have lent further credence to petitioner's argument that Mr. Nickey was grossly negligent in maintaining the patent and that his alleged gross negligence was the sole reason for the delay in paying the maintenance fees. Rather, the informal nature of the arrangement between petitioner and Mr. Nickey that persisted at least from 2005, until Mr. Nickey's demise undermines the assertion that petitioner treated the maintenance of the patent as its most important business and that Mr. Nickey's negligence was the sole reason for the entire delay in paying the maintenance fees.

The assertion that patentees treated the maintenance of the patent as their most important business is further undermined by the fact that patentees did not ascertain the status of the patent until 2008—more than three years after the patent expired—and only became aware of the expiration of the patent because efforts to license the patent had begun. The patentee is entitled to make inquiries into the status of its patent at any point with, or without, the assistance of a patent agent. Arguably, the exercise of diligence

and prudence relative to the maintenance of the patent would require that the patentee routinely check into the status of the patent. In so doing, the patentee may have discovered that the failings of Mr. Nickey and the fact that the patent was expired much sooner or may have been able to prevent the patent from expiring at all.

It is noted that a successful petition under 37 CFR 1.378(b) requires that petitioner establish that the entire period of delay—from the due date for the maintenance fee to the filing of a grantable petition under 37 CFR 1.378(b)—was unavoidable. Even assuming the gross negligence of Mr. Nickey was one reason for the delay in paying the maintenance fee, petitioner has not satisfactorily demonstrated that it persisted as the sole reason for the alleged unavoidable delay in paying the maintenance fees for the entire relevant period from April 25, 2005, until 2009.

It is noted that the courts hesitate to punish a client for its lawyer's gross negligence, especially when the lawyer affirmatively misled the client, but "...if the client freely chooses counsel, it should be bound by counsel's actions⁸. The record indicates that petitioner freely chose to rely on Mr. Nickey, entrusting Mr. Nickey with his most important business even in the absence of any formal agreement, or understanding of Mr. Nickey's procedures for ensuring the maintenance of the patent, or any efforts to check in on the status of the patent himself. Petitioner's reliance on Mr. Nickey was clearly misplaced and unfortunate, but petitioner has not established that Mr. Nickey's alleged betrayal of petitioner's trust is the sole reason for the entire period of the alleged unavoidable delay in paying the maintenance fees nor has petitioner established that petitioner acted reasonably and prudently in relying on the verbal assurances of Mr. Nickey without further investigation. Neither has petitioner established that petitioner treated the maintenance of the patent as its most important business during the entire relevant period.

Petitioner's Current Options

I. Petitioner may file a request for reconsideration.

If reconsideration of this decision is desired, a petition for reconsideration must be filed within TWO (2) MONTHS from the mail date of this decision.⁹ The petition for reconsideration should be titled "Petition for Reconsideration under 37 CFR 1.378(e)." Any petition for reconsideration for this decision must be accompanied by a non-refundable petition fee of \$400.00 as set forth in 37 CFR 1.17(h).

After a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner. It is, therefore, extremely important that petitioner supply any and all relevant information and documentation with the request for reconsideration. The Commissioner's decision will be based solely on the administrative record in existence. Petitioner should remember that is not enough that the delay was unavoidable; petitioner must prove that the delay was unavoidable. A petition will not be granted if petitioner provides insufficient evidence "to show" that the

⁸ Inryco, Inc. v. Metropolitan Engineering Co., Inc., 708 F.2d 1225, 1233 (7th Cir. 1983). See also, Wei v. State of Hawaii, 763 F.2d 370, 372 (9th Cir. 1985); LeBlanc v. I.N.S., 715 F.2d 685, 694 (1st Cir. 1983).

A reasonable and prudent person would not rely on maintenance fee reminders from the Office for two reasons. First, the Office has indicated that such reminders are a mere courtesy and has reserved the right to discontinue such reminders at any time. Second, such reminders may be lost in the mail. A reasonable and prudent person, in regard to his most important business would not rely solely on reminders that the Office may or may not send which may or may not be lost in the mail.

⁹No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). This is not a final agency action within the meaning of 5 U.S.C. § 704.

delay was unavoidable. If a request for reconsideration is filed, it must establish that the entire delay in the submission of the maintenance fee was unavoidable.

II. Petitioner may request a refund of the maintenance fee(s) and surcharge which accompanied the petition.

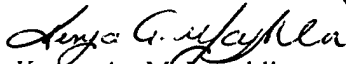
Petitioner may request a refund of the maintenance fee and surcharge by writing to the Office of Finance, Refund Section, Commissioner for Patents, Washington, DC 20231. A copy of this decision should accompany petitioner's request.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patent
Mail Stop Petitions
Box 1460
Alexandria, VA 22313-1460

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.


Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc:
Donn K. Harms, Esq.
12702 Via Cortina, Suite 100
Del Mar, California 92014



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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

AUG 17 2011

OFFICE OF PETITIONS

Donn K. Harms, Esq.
12702 Via Cortina, Suite 100
Del Mar, CA 92014

In re Patent No. 6,221,836
Issued: April 24, 2001
Application No.: 09/213,968
Filing Date: December 17, 1998
Attorney Docket No. **1207-003D**

:
: REQUEST FOR INFORMATION
:
:
:

This is a second request for information in response to the petition under 37 CFR 1.378(e) filed November 16, 2010.

Petitioner is allowed a non-extendable period for reply of **TWO (2) MONTHS** from the mailing date of this communication to provide a response. The response should be titled, "Response to Request for Information." If no response is provided within the period set forth, a decision will be made solely on the merits as set forth in the petition under 37 CFR 1.378(b) filed September 28, 2009. No additional fees are due.

The patent issued April 24, 2001. The 3.5 year maintenance fee could have been paid from April 24, 2004, through October 24, 2004, or with a surcharge, as authorized by 37 CFR 1.20(h), during the period from October 25, 2004, through April 24, 2005. The 3.5 year maintenance fee was not paid; the patent expired at midnight on April 24, 2005.

Petitioner maintains that the actions of the assignee, not Mr. Don Nickey—the registered agent and co-inventor the assignee charged with tracking and paying the maintenance fee—should be examined in determining whether the entire delay in paying the maintenance fee and filing a grantable petition under 37 CFR 1.378(b) was unavoidable.

Petitioner is required to address the following point:

- The USPTO must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and the applicant is bound by the consequences of those action or inactions. See Link v. Wabash, 370 U.S. 626, 633-634 (1962). Specifically, petitioner's delay caused by the mistakes or negligence of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 USC 133. The actions of the attorney are imputed to the client, for when a petitioner voluntarily chooses an attorney to represent him, the petitioner cannot later avoid the repercussions of the actions or inactions of this selected representative for clients are bound by the acts of their lawyers/agents, and constructively possess "notice of all facts, notice of which can be charged upon the attorney" Id.

It is noted that petitioner's November 16, 2010, filing relies, in large measure, on the premise that

only the assignee's actions are relevant in determining whether the delay was unavoidable. Given the holding of the court in Link v. Wabash as cited above, it is again requested that petitioner provide any, and all, information that petitioner may have regarding the actions or inactions of Mr. Nickey relative to the non-payment of the maintenance fee. This may include information about Mr. Nickey's procedures for tracking, docketing, and paying the maintenance fee and how Mr. Nickey's illness may have affected his failure to pay the 3.5-year maintenance fee.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patent
 Mail Stop Petitions
 Box 1450
 Alexandria, VA 22313-1460

By facsimile: (571) 273-8300
 Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : November 19, 2010

TO SPE OF : ART UNIT 1635 - Acting SPE Heather Calamita

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/215,257 Patent No.: 6,506,559 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

**Certificates of Correction Branch (CofC)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206**

Antonio Johnson

Should the changes in the claims be approved?

Applicant is requesting the term "organism" be changed to read "animal".

Certificates of Correction Branch
(571)272-0483

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

Comments: _____

_____ Acting SPE /Heather Calamita/ Art Unit 1635



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PHILIP G. MEYERS LAW OFFICE
1009 LONG PRAIRIE ROAD, SUITE 300
FLOWER MOUND TX 75022

MAILED

DEC 02 2011

In re Patent No. 6,061,691
Issue Date: May 9, 2000
Application No. 09/215,922
Filed: December 18, 1998
Attorney Docket No. 117957-1005

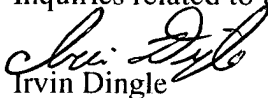
: **OFFICE OF PETITIONS**
:
:
: NOTICE
:

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.


Irvin Dingle
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No.	6539475	:
Issue Date:	March 25, 2003	:
Application No.	09215960	:DECISION GRANTING PETITION
Filed:	December 18, 1998	:UNDER 37 CFR 1.378(c)
Attorney Docket No.	11707(SGNA-1)	:

This is a decision on the electronic petition, filed July 1, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 1, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,539,475	2003-03-25	09/215,960	1998-12-18	11707

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input checked="" type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Paul J. Esatto, Jr./	Date (YYYY-MM-DD)	2011-06-20
Name	Paul J. Esatto, Jr.	Registration Number	30749
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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**GLENN L. WEBB
GLENN L. WEBB P.C.
P.O BOX 3788
DURANGO CO 81302**

MAILED

OCT 13 2010

In re Application of	:	OFFICE OF PETITIONS
Seres et al.	:	
Application No. 09/218,308	:	DECISION ON PETITION
Filed: December 22, 1998	:	
Title: Protective Device For Dispensing	:	
Devices	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 24, 2005 revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is not a final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item (2).

With respect to item (2) petitioner has not submitted the required small entity petition fee of \$810.00 or the small entity Appeal Brief fee of \$270.00. Petitioner's credit card was declined.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition to revive an abandoned application for patent based on unintentional delay. The petition in the above-identified application was not accompanied by payment of the required fee. **No consideration on the merits can be given to the petition until the required fee is received.**

Additionally, the address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

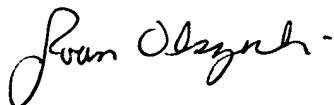
Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
 Commissioner for Patents
 P. O. Box 1450
 Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
 Customer Service Window, Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.



Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Glenn L. Webb
 PO 951
 Conifer, CO 80433



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J. GEORG SEKA
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER, 8TH FLOOR
SAN FRANCISCO CA 94111-3834

MAILED

JUN 13 2011

OFFICE OF PETITIONS

In re Patent No. 6,243,822
Issue Date: June 5, 2001
Application No. 09/220,500
Filed: December 24, 1998
Attorney Docket No. 20181-22

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NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed May 10, 2011.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions



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Commissioner for Patents
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NELSON MULLINS RILEY & SCARBOROUGH LLP
FLOOR 30, SUITE 3000
ONE POST OFFICE SQUARE
BOSTON MA 021095

MAILED

MAR 04 2011

OFFICE OF PETITIONS

In re Application of
Mills
Application No. 09/220,970
Filed: December 23, 1998
Attorney Docket No. RMI-018
For: Method and System for Pattern
Recognition and Processing

DECISION ON PETITION

The above-identified application has been forwarded to the undersigned for consideration on a petition for patent term extension entitled "Petition for Review Pursuant to 37 CFR 1.181," received on June 15, 2010. The petition is being treated under 37 CFR 1.181 and 37 CFR 1.701, as a petition for patent term extension.

The petition is GRANTED.

Petitioner asserts that the Notice of Allowance mailed by the Office on March 15, 2010 is incorrect, as it states that the application is only eligible for 558 days of patent term extension. Petitioner states that the application is eligible for 1,743 days of patent term extension based on a first Notice of Appeal filed on July 11, 2000, applicants requesting reinstatement of the Appeal on August 27, 2001, a remand by the BPAI on March 22, 2005, another Notice of Appeal filed on May 21, 2007 and a Decision reversing an adverse determination of patentability by the examiner on November 28, 2009.

On July 11, 2000, a first Notice of Appeal filed.

On July 19, 2001, the Examiner reopened prosecution to set forth a new grounds of rejection.

On August 27, 2001, Applicants requested reinstatement of the Appeal.

On March 22, 2005, the BPAI remanded the application to the Examiner.

On December 21, 2006, the Office mailed a non-final Office Action.

On May 21, 2007, Notice of Appeal was re-filed.

On November 28, 2008, the BPAI made a Decision reversing an adverse determination of patentability by the examiner.

35 U.S.C. § 154(b) provides for patent term extension for appellate review, interference and secrecy order delays in applications filed on or after June 8, 1995 and before May 29, 2000, and, as amended by the "American Inventors Protection Act of 1999," enacted November 29, 1999, as part of Public Law 106-113, for those delays and others in applications filed on or after May 29, 2000.

The above-identified application was filed on December 23, 1998. Accordingly it is entitled to patent term extension based upon the conditions in 35 U.S.C. § 154(b), in effect on June 8, 1995.

A Notice of Appeal was filed in the above-identified application on July 11, 2000. On November 28, 2008, the Board of Patent Appeals and Interferences (BPAI) reversed the adverse determination of patentability by the examiner in the above-identified application. Since the above-identified application was filed after June 7, 1995, there is no terminal disclaimer due to the issue of another patent claiming subject matter that is not patentably distinct from that under appellate review, and issuance of the application as a patent was delayed due to appellate review resulting in a reversal by a panel of the BPAI to the Examiner, the patent to issue from the application is entitled to an extension of the patent term.¹ The period of delay in the above-identified application is the period beginning on July 11, 2000, the date that the Notice of Appeal was filed and ending on November 28, 2008, the date of the decision by the BPAI, which is a final decision in favor of the applicant. Three years after the earliest effective filing date of the application is December 23, 2001. Accordingly, the period of extension is required to be reduced pursuant to 37 CFR 1.701(d)(1) by the amount of time prior to three years after the filing date of the application. As a result, the period of extension is 2533 days, the period from December 23, 2001 to November 28, 2008, including the beginning and end dates.

As a result, the period of extension is 2533 days. In accordance with 37 CFR 1.701(b), the term of a patent under this section may be extended up to a maximum of five years. The patent term extension under 35 U.S.C. 154 and 37 CFR 1.701 is five (5) years.

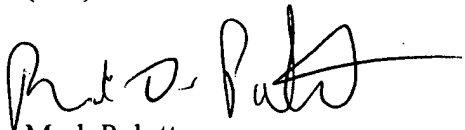
The Office's electronic record (Patent Application and Location Monitoring system (PALM)) will be adjusted to show that five (5) years of patent term extension has been accrued to the above-identified application.

After mailing of this decision, the above-identified application will be forwarded to Office of Publications for further processing.

¹ Revision of Patent Term Extension and Patent Term Adjustment Provisions, 78 FR 21704, 21705 (April 22, 2004), 1282 Off. Gaz. Pat. Office Notices 100 (May 18, 2004) (final rule).

Petitioner's deposit account has not been charged a petition fee.

Telephone inquiries with regard to this communication should be directed to Mark O. Polutta at (571) 272-7709.

A handwritten signature in black ink, appearing to read 'Mark O. Polutta', with a long horizontal stroke extending to the right.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6031563 :
Issue Date: February 29, 2000 :
Application No. 09221118 :DECISION GRANTING PETITION
Filed: December 28, 1998 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 067123-0176 :

This is a decision on the electronic petition, filed April 19, 2012, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 19, 2012. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6031563	2000-02-29	09221118	1998-12-28	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|--|-----|--------|
| <input type="radio"/> 3 ½ year | | (1551) |
| <input type="radio"/> 7 ½ year | | (1552) |
| <input checked="" type="radio"/> 11 ½ year | | (1553) |

Small Entity

- | | Fee | Code |
|---------------------------------|-----|--------|
| <input type="radio"/> 3 ½ year | | (2551) |
| <input type="radio"/> 7 ½ year | | (2552) |
| <input type="radio"/> 11 ½ year | | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Alison L. McCarthy/	Date (YYYY-MM-DD)	2012-04-19
Name	Alison L. McCarthy	Registration Number	51998
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ROCHE MOLECULAR SYSTEMS, INC.
4300 HACIENDA DRIVE
PLEASANTON, CA 94588

MAILED
OCT 25 2011
OFFICE OF PETITIONS

In re Patent No. 6,398,281 :
Issue Date: June 4, 2002 :
Application No. 09/223,295 :
Filed: December 30, 1998 :
Attorney Docket No. REN-11574 :

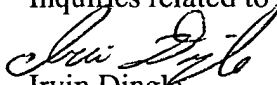
NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.


Irvin Dingle
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6455138 :
Issue Date: September 24, 2002 :
Application No. 09223545 :DECISION GRANTING PETITION
Filed: December 30, 1998 :UNDER 37 CFR 1.378(c)
Attorney Docket No. TAI197-01PA :

This is a decision on the electronic petition, filed May 3, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 3, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6455138	2002-09-24	09223545	1998-12-30	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input checked="" type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

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I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

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Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Benjamin Hudson, Jr/	Date (YYYY-MM-DD)	2011-05-02
Name	Benjamin Hudson, Jr	Registration Number	29653
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

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3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
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8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
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SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/04/11

TO SPE OF : ART UNIT 2178

SUBJECT : Request for Certificate of Correction for Appl. No 09/223,773: 6981215

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)

Should the change(s)
Be made?

RoChaun Johnson

Certificates of Correction Branch

571 272-0470

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

Comments: _____

/Stephen Hong/

2178

SPE

Art Unit

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6112529	2000-09-05	09224569	1998-12-30	020054

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
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| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

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Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Trent C. Keisling/	Date (YYYY-MM-DD)	2010-08-04
Name	Trent C. Keisling	Registration Number	36565
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

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2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
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7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
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UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6112529 :
Issue Date: September 5, 2000 :
Application No. 09224569 :DECISION GRANTING PETITION
Filed: December 30, 1998 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 012109 :

This is a decision on the electronic petition, filed August 4, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 4, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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CHADBOURNE & PARKE LLP
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

MAILED

AUG 09 2011

OFFICE OF PETITIONS

In re Patent No. **6,510,418**
Issue Date: January 21, 2003
Application No. 09/224,907
Filed: January 4, 1999
Attorney Docket No. **17200-036US**

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-7253.

/Monica A. Graves/
Petitions Examiner, Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY

THOMAS J DODD
BIONUMERIK PHARMACEUTICALS INC
8122 DATAPOINT DRIVE
SUITE 1250
SAN ANTONIO TX 78229

MAILED
DEC 13 2010
OFFICE OF PETITIONS

In re Application of
Frederick H. Hausheer et al.
Application No. 09/225,700
Patent No. 6,048,849
Filed: January 06, 1999
Attorney Docket No. X-0063 F

Paper No. 7

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted.

Inquiries related to this communication should be directed to the undersigned at (571) 272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6301187 :
Issue Date: October 9, 2001 :
Application No. 09226064 :DECISION GRANTING PETITION
Filed: January 6, 1999 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 49657-273 :

This is a decision on the electronic petition, filed January 6, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 6, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6301187	2001-10-09	09226064	1999-01-06	ID 003111

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input checked="" type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/SMG/	Date (YYYY-MM-DD)	2011-01-06
Name	Steven M. Gruskin	Registration Number	36818
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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Paper No. 14

Glen Thurber
2041 SW Western
Topeka KS 66604

MAILED

JAN 11 2011

OFFICE OF PETITIONS

In re Patent No. 6,179,736 :
Issued: 01/30/2001 :
Application No. 09/227,139 :
Filed: 01/07/1999 :
For: GRAPHITE ARROW AND METHOD: :
OF MANUFACTURE :

ON PETITION

This is in response to the petition filed October 15, 2010, which is being treated under 37 CFR 1.378(b), to accept the unavoidably delayed payment of the maintenance fee for the above-identified patent.

The Director may accept the payment of any maintenance fee due on a patent after expiration of the patent if, upon petition, the delay in payment of the maintenance fee is shown to the satisfaction of the Director to have been unavoidable and if the surcharge required by § 1.20(i) is paid as a condition of accepting payment of the maintenance fee. 37 CFR 1.378(a).

A grantable petition to accept a delayed maintenance fee payment under 37 CFR 1.378(b) must include the following:

(1) the required maintenance fee set forth in § 1.20(e) through (g);

(2) the surcharge set forth in § 1.20(i)(1); and

(3) a showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

The present petition lacks items (1), (2) and (3).

The USPTO finance record reveals that the 3.5 year maintenance fee of \$450.00 submitted on January 28, 2005, was refunded by treasury check on October 6, 2006. The Office has no record of receiving payment of the 7.5 year maintenance fee. Furthermore, petitioner did not submit the 3.5 year and the 7.5 year maintenance fees and the required surcharge under 37 CFR 1.20(i)(1) with the present petition. The Office notes that the maintenance fees, as well as the required surcharge, must be paid as a condition for accepting the late maintenance fee on petition. The Office further notes that petitioner failed to sign page 3 of 4 of the present petition.

In view of the above, the Office is unable to treat the present petition on the merits until petitioner submits a "renewed" petition under 37 CFR 1.378(b), the payment for the surcharge after expiration (currently \$700.00), the maintenance fees due at 3.5 and 7.5 years (\$490.00 and \$1,240.00 respectively) **as well as documentary evidence in support of a showing of unavoidable delay.** Thus, the petition is dismissed. The Office reminds petitioner that the surcharge after expiration must be paid in the amount due on the date the "renewed" petition is filed.

Although the Office will not address the petition on its merits, the Office reminds petitioner that in determining whether the delay in paying a maintenance fee was unavoidable, one looks to whether the party responsible for payment of the maintenance fee exercised the due care of a reasonably prudent person. Ray v. Lehman, 55 F.3d 606, 608-609, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995). At the time of the expiration of a patent, it is the patent owners who are ultimately the persons responsible to ensure the timely payment of the maintenance fees. The patent owners may engage another to track and/or pay the maintenance fees; however, merely engaging another does not relieve the patent owners from their obligation to take appropriate steps to ensure the timely payment of such maintenance fees. The Office further reminds petitioner that under the statutes and regulations, the USPTO has no duty to notify a patent owner of the requirement to pay maintenance fees or to notify the patentee when the maintenance fee is due. The Office may mail a maintenance fee reminder strictly as a courtesy; however, it is solely the responsibility of the patent owner to ensure that the maintenance fee is paid timely to prevent expiration of the patent. The failure to receive a maintenance fee reminder does not relieve the patentee of the obligation to timely pay the maintenance fee, nor will it constitute unavoidable delay if the patentee seeks reinstatement under the regulation. Rydeen v. Quigg, 748 F. Supp. 900, 905 (D.D.C. 1990).

The required showing for unavoidable delay must set forth the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which petitioner became aware of the expiration of the patent, and the steps taken to file the petition promptly. MPEP 2590. Furthermore, an adequate showing requires a statement by all persons with direct knowledge of the cause of the delay, setting forth the facts as they know them. Id. Copies of all documentary evidence referred to in a statement should be furnished as exhibits to the statement. Thus, where a patentee fails to show that he took reasonable steps, or discloses that he took no steps to ensure

Patent No. 6,179,736
Application No. 09/227,139

Page 3

timely payment of the maintenance fee, 35 U.S.C. 41(c) and 37 CFR 1.378(b)(3) preclude acceptance of the delayed payment of the maintenance fee under 37 CFR 1.378(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

By FAX: (571) 273-8300
 Attn: Office of Petitions

By hand: Customer Service Window
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

The patent file is being forwarded to Files Repository.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Form PTO/SB/65



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6418462
Issue Date: July 9, 2002
Application No. 09227495
Filed: January 7, 1999
Attorney Docket No.

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed October 10, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 10, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6418462	2002-07-09	09227495	1999-01-07	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|---------------------------------|-----|--------|
| <input type="radio"/> 3 ½ year | | (1551) |
| <input type="radio"/> 7 ½ year | | (1552) |
| <input type="radio"/> 11 ½ year | | (1553) |

Small Entity

- | | Fee | Code |
|---|-----|--------|
| <input type="radio"/> 3 ½ year | | (2551) |
| <input checked="" type="radio"/> 7 ½ year | | (2552) |
| <input type="radio"/> 11 ½ year | | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☐ An attorney or agent registered to practice before the Patent and Trademark Office
- ☒ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Sole Patentee			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/Yongyong Xu/	Date (YYYY-MM-DD)	2010-10-10
Name	Yongyong Xu		
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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Commissioner for Patents
United States Patent and Trademark Office
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MAILED

APR 06 2012

OFFICE OF PETITIONS

Deborah Wenzel, President
Saga Fuel Systems, Inc.
3145 Geary Blvd. , Suite 270
San Francisco, CA 94118

In re Patent No. 6,348,074
Issue Date: February 19, 2002
Application No. 09/228,821
Filed: January 11, 1999
Patentee(s): Deborah Wenzel

ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed on February 14, 2012, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

A petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. § 41(c) and 37 CFR 1.378(c) must be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2). This petition lacks item (3) above.

A review of the record shows petitioner submitted a credit card payment in the amount of \$2,880 for payment of the 3 ½ year maintenance fee in the amount of \$1,240 and the unintentional surcharge in amount of \$1,640, on February 14, 2012. However, since the patent expired for non-payment of the 7 ½ year maintenance fee, this patent cannot be reinstated until the deficiency of \$185 (1425–1240) has been submitted¹.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within **TWO (2) MONTHS** from the mail date of this decision. No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

¹ Effective September 26, 2011, the 7 ½ small entity maintenance fee was increased from \$1,240 to \$1,425.

Any petition for reconsideration of this decision must be accompanied by the petition fee of \$400 as set forth in 37 CFR 1.17(f). The petition for reconsideration must include the lacking item(s) noted above, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
 Commissioner for Patents
 Post Office Box 1450
 Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
 Customer Service Window, Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Telephone inquiries should be directed to the undersigned at (571) 272-3226.

/Andrea Smith/
Andrea Smith
Petitions Examiner
Office of Petitions



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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

GLENN PATENT GROUP
347 EDISON WAY
SUITE L
MENLO PARK CA 94025

MAILED

JAN 12 2012

In re Application of	:	OFFICE OF PETITIONS
Liljeryd et al.	:	
Application No. 09/230,799	:	
Patent No.: 6,680,972	:	DECISION ON PETITION
Filed: February 9, 1999	:	PURSUANT TO
Issued: January 20, 2004	:	37 C.F.R. § 1.28(c)
Attorney Docket No.: 226-103PCT	:	
Title: SOURCE CODING	:	
ENHANCEMENT USING SPECTRAL-BAND	:	
REPLICATION	:	

This is a notice regarding your request for acceptance of a fee deficiency submission pursuant to 37 C.F.R. § 1.28, received on December 13, 2011. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 C.F.R. § 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 C.F.R. § 1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore, nothing in this notice is intended to imply that an investigation was done.

Petitioner has identified the particular type of fees that were erroneously paid as a small entity, when the small entity fees were actually paid, the small entity fees that were actually paid, the deficiency owed amounts, and the total deficiency payment owed.

The deficiency payment in the amount of \$2,290.00 has been received.

Application No. 09/230,799

Page 2

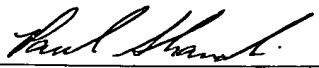
Patent No.: 6,680,972

Decision on Petition pursuant to 37 C.F.R. § 1.28(c)

Your fee deficiency submission pursuant to 37 C.F.R. § 1.28(c) is hereby accepted. The petition is **GRANTED** accordingly.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.



Paul Shanowski
Senior Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6365173 :
Issue Date: April 2, 2002 :
Application No. 09231552 :DECISION GRANTING PETITION
Filed: January 14, 1999 :UNDER 37 CFR 1.378(c)
Attorney Docket No. ZEE-100 :

This is a decision on the electronic petition, filed September 21, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 21, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,365,173	2002-04-02	09/231,552	1999-01-14	ZEE 100

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input checked="" type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Rivka D. Monheit/	Date (YYYY-MM-DD)	2010-09-21
Name	Rivka D. Monheit	Registration Number	48731
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**SNELL & WILMER L.L.P. (AMEX)
ONE ARIZONA CENTER
400 E. VAN BUREN STREET
PHOENIX AZ 85004-2202**

MAILED

JUL 14 2011

OFFICE OF PETITIONS

In re Patent No. 6,490,601
Issued: December 3, 2002
Application No. 09/231,644
Filed: January 15, 1999
Attorney Docket No. 70655.7600

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:

ON PETITION

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed June 21, 2011.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DRINKER BIDDLE & REATH
ATTN: INTELLECTUAL PROPERTY GROUP
ONE LOGAN SQUARE, SUITE 2000
PHILADELPHIA, PA 19103-6996

MAILED

JUL 18 2011

OFFICE OF PETITIONS

In re Patent No. 6,162,496
Issue Date: December 19, 2000
Application No. 09/231,691
Filed: January 14, 1999
Patentee(s): David Blue

NOTICE

This is a Notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed on June 24, 2011.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**. Therefore, status as a small entity has been removed.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6449930	2002-09-17	09233800	1999-01-19	7320-2

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|---------------------------------|-----|--------|
| <input type="radio"/> 3 ½ year | | (1551) |
| <input type="radio"/> 7 ½ year | | (1552) |
| <input type="radio"/> 11 ½ year | | (1553) |

Small Entity

- | | Fee | Code |
|---|-----|--------|
| <input type="radio"/> 3 ½ year | | (2551) |
| <input checked="" type="radio"/> 7 ½ year | | (2552) |
| <input type="radio"/> 11 ½ year | | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

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Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/panagiotabettytufariello/	Date (YYYY-MM-DD)	2010-10-03
Name	Panagiota Betty Tufariello, Esq	Registration Number	40851
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

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2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6449930 :
Issue Date: September 17, 2002 :
Application No. 09233800 :DECISION GRANTING PETITION
Filed: January 19, 1999 :UNDER 37 CFR 1.378(c)
Attorney Docket No. RBT2CIP :

This is a decision on the electronic petition, filed November 3, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 3, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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ADDISON WOODBURY LEARNED III
P O BOX 164
N ABINGTON MA 02351

MAILED

MAR 08 2011

OFFICE OF PETITIONS

In re Patent No. 6,473,929
Issue Date: November 5, 2002
Application No. 09/233,805

Filed: March 10, 1998
Attorney Docket No. N/A
For: ISOKINETIC PAINT BRUSH
HANDLES

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ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed January 31, 2011 (certificate of mailing date January 24, 2011), to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on November 6, 2010 for failure to pay the 7 ½ year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Petitioner submitted a check for \$3,000.00. A \$1,640.00 surcharge and a \$1,240.00 7 ½ year maintenance fee is required. The \$120.00 balance will be refunded via a U.S. Treasury check that will be scheduled shortly.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3230.

The patent file is being forwarded to Files Repository.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**CAMPBELL STEPHENSON LLP
11401 CENTURY OAKS TERRACE
BLDG. H, SUITE 250
AUSTIN TX 78758**

MAILED

MAY 05 2011

OFFICE OF PETITIONS

In re Patent No. 7,062,550	:	
Issued: June 13, 2006	:	
Application No. 09/233,860	:	ON PETITION
Filed: January 20, 1999	:	
Attorney Docket No. VRT0215US	:	

This is a decision on the petition under 37 C.F.R. § 1.182, filed April 4, 2011, to change the name of an inventor by way of a Certificate of Correction.

The petition is **GRANTED**.

The name will be changed from "Gregory M. Hanka" to -- Kaitlyn Denise Hanka--.

Telephone inquiries regarding this decision should be directed to Joan Olszewski at (571) 272-7751. The matter is being referred to the Certificate of Corrections Branch for processing of the Certificate of Correction.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6433790	2002-08-13	09234133	1999-01-19	11104

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input checked="" type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Kendal M. Sheets/	Date (YYYY-MM-DD)	2010-10-15
Name	Kendal M. Sheets	Registration Number	47077
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

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The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No.	6433790	:
Issue Date:	August 13, 2002	:
Application No.	09234133	:DECISION GRANTING PETITION
Filed:	January 19, 1999	:UNDER 37 CFR 1.378(c)
Attorney Docket No.	11104	:

This is a decision on the electronic petition, filed October 18, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 18, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



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In re Patent No. 6302042 :
Issue Date: October 16,2001 :
Application No. 09234862 :DECISION GRANTING PETITION
Filed: January 22,1999 :UNDER 37 CFR 1.378(c)
Attorney Docket No. HAR0029 :

This is a decision on the electronic petition, filed February 23,2011 ,under 37 CFR 1.378(c)
to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 23,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and
this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print
and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6302042	2001-10-16	09234862	1999-01-22	9567.4821

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☒ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input checked="" type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/dale paul dimaggio/	Date (YYYY-MM-DD)	2011-02-23
Name	Dale Paul DiMaggio	Registration Number	31823
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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October 14, 2010

Daniel J. Long
BAE Systems
P.O. Box 868 NHQ01-179
Nashua, NH 03061-0868

Patent No. : 6,584,140 B1
Ser. No. : 09/235,988
Inventor(s) : Paul K. Lee
Issued : June 24, 2003
Docket No. : D-04384
Title : SPECTRUM EFFICIENT FAST FREQUENCY-HOPPED MODEM WITH COHERENT
DEMODULATION

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing incorrect or erroneous assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 (*see Manual of Patent Examining Procedures (M.P.E.P) Chp. 1400, sect. 1481*). This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

- A. the processing fee set forth in 37 CFR 1.17(i) (currently \$130);
- B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
- C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-0025
ATTN: Office of Petitions

If a fee (currently \$100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

/Virginia Tolbert/
Virginia Tolbert
For Mary Diggs
Decisions & Certificates
of Correction Branch
(571) 272-0460 or (703) 756-1814

vt



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**CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON DC 20044-4300**

**MAILED
APR 06 2012
OFFICE OF PETITIONS**

In re Patent No. 6,092,748	:	
Issue Date: July 25, 2000	:	
Application No. 09/236,087	:	NOTICE UNDER 37 CFR. 1.28(c)
Filed: January 25, 1999	:	
Attorney Docket No. 3078/44920	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **DIMISSED**.

37 CFR 1.28(c) 2 (ii) states:

(ii) *Itemization of the deficiency payment*. An itemization of the total deficiency payment is required. The itemization must include the following information:

- (A) Each particular type of fee that was erroneously paid as a small entity, (e.g., basic statutory filing fee, two-month extension of time fee) along with the current fee amount for a non-small entity;
- (B) The small entity fee actually paid, and when. This will permit the Office to differentiate, for example, between two one-month extension of time fees erroneously paid as a small entity but on different dates;
- (C) The deficiency owed amount (for each fee erroneously paid); and
- (D) The total deficiency payment owed, which is the sum or total of the individual deficiency owed amounts set forth in paragraph (c)(2)(ii)(C) of this section.

A one (1) month non-extendable time period for reply is given from the mail date of this decision, to avoid the return of the fee deficiency paper, at the option of the Office.

Inquiries related to this communication should be directed to the Michelle R. Eason at (571) 272-4231.

A handwritten signature in black ink, appearing to read "Thurman Page". The signature is fluid and cursive, with the first name "Thurman" and the last name "Page" clearly distinguishable.

Thurman Page
Petitions Examiner
Office of Petitions



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Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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LEONARD TACHNER, A PROFESSIONAL LAW
CORPORATION
17961 SKY PARK CIRCLE, SUITE 38-E
IRVINE CA 92614

MAILED

FEB 10 2011

OFFICE OF PETITIONS

In re Patent No. 6,098,924	:	
Issue Date: August 8, 2000	:	DECISION ON PETITION
Application No. 09/236,188	:	
Filed: January 23, 1999	:	
Attorney Docket No. CSUF-12	:	

This is a decision in response to the petition under 37 CFR 1.378(b), filed January 24, 2011, to accept the unavoidably delayed payment of the maintenance fee for the above-identified patent.

The petition under 37 CFR 1.378(b) is **dismissed** without prejudice to reconsideration.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). Any such petition for reconsideration must be accompanied by the petition fee of \$400.00 as set forth in 37 CFR 1.17(f). The petition for reconsideration should include an exhaustive attempt to provide the lacking item(s) noted below because the Director will not undertake any further reconsideration or review of the matter after a decision on the petition for reconsideration.

The patent issued on August 8, 2000. The maintenance fee could have been paid during the period from August 8, 2007 through February 8, 2008, or with a surcharge during the period from February 9, 2008 through August 8, 2008. Accordingly, this patent expired on August 9, 2008, for failure to timely remit the maintenance fee.

A grantable petition to accept a delayed maintenance fee payment under 37 CFR 1.378(b) must include the following:

- (1) the required maintenance fee set forth in § 1.20(e) through (g);

(2) the surcharge set forth in § 1.20(i)(1); and

(3) a showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

This petition lacks requirement (3).

As 35 U.S.C. 41(c) requires the payment of fees at specified intervals to maintain a patent in force, rather than some response to a specific action by the Office under 35 U.S.C. 133, a reasonably prudent person in the exercise of due care and diligence would have taken steps to ensure the timely payment of such maintenance fees. Ray v. Lehman, 55 F.3d 606, 609, 34 USPQ2d 1786, 1788 (Fed. Cir. 1995).

That is, an adequate showing that the delay in payment of the maintenance fee at issue was “unavoidable” within the meaning of 35 U.S.C. 41(c) and 37 CFR 1.378(b)(3) requires a showing of the steps taken to ensure the timely payment of the maintenance fees for this patent. Id. Thus, where the record fails to disclose that the patentee took reasonable steps, or discloses that the patentee took no steps, to ensure timely payment of the maintenance fee, 35 U.S.C. 41(c) and 37 CFR 1.378(b)(3) preclude acceptance of the delayed payment of the maintenance fee under 37 CFR 1.378(b).

Acceptance of a late maintenance fee under the unavoidable delay standard is considered under the same standard for reviving an abandoned application under 35 U.S.C. 133. This is a very stringent standard. Decisions on reviving abandoned applications on the basis of “unavoidable” delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

The word ‘unavoidable’ . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.

In re Mattullath, 38 App. D.C. 497, 514-15 (1912) (quoting Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 667-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a “case-by-case basis, taking all the facts and circumstances into account.” Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of

establishing that the delay was “unavoidable.” Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987). Moreover, patentee’s lack of knowledge of the need to pay the maintenance fee and the failure to receive the Maintenance Fee Reminder do not constitute unavoidable delay. See Patent No. 4,409,763, 7 USPQ2d 1798 (Comm’r Pat. 1988).

In determining whether the delay in paying a maintenance fee was unavoidable, one looks to whether the party responsible for payment of the maintenance fee exercised the due care of a reasonably prudent person. Ray v. Lehman, 55 F.3d 606, 608-609, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995). The patent owner at the time of the expiration of the patent is ultimately the person responsible to ensure the timely payment of the maintenance fees. The patent owner may engage another to track and/or pay the maintenance fees; however, merely engaging another does not relieve the patent owner from his obligation to take appropriate steps to ensure the timely payment of such maintenance fees. See California Medical Prods. v. Tecnol Medical Prods., 921 F. Supp. 1219 (D. Del. 1995). Moreover, the USPTO must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of an applicant, and an applicant is bound by the consequences of those actions or inactions. Link v. Wabash, 370 U.S. 626, 633-34 (1962); Huston v. Ladner, 973 F.2d 1564, 1567, 23 USPQ2d 1910, 1913 (Fed. Cir. 1992). Specifically, delay caused by the actions or inactions of a voluntarily chosen representative does not constitute unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (D. Ind. 1987).

In the present petition, petitioner asserted that over a protracted period beginning in 2005, counsel’s office manager, Ms. Foreman, experienced a medical condition that caused her to fail in her office duties which included notifying the patentee of the need to pay the maintenance fees, obtaining the client’s authorization to pay the maintenance fee, and proceeding to send the payment to the USPTO. In support of the petition, petitioners provided a statement from patent practitioner Leonard Tachner, office manager Ms. Foreman, and Dr. Samuel A. Albert.

To establish a showing of “unavoidable” delay based upon medical incapacitation, petitioner must demonstrate that the incapacitation was of such a nature and degree as to render the person unable to conduct business (*e.g.*, correspond with the USPTO) during the period when the maintenance fee was due. Such a showing must be supported by a statement(s) from the person’s treating physician(s), and such statement(s) must provide the nature and degree of the person’s medical condition during the period from when the maintenance was due (*i.e.*, August 8, 2008) until the filing of a grantable petition. Namely, petitioner should provide the USPTO with a statement from a treating physician, asserting that from the time the maintenance fee was due (*i.e.*, August 8, 2008) until the filing of a grantable petition, the person’s medical condition was of such a degree of severity that it prevented her from timely paying the maintenance fee. Additionally, the treating physician must describe person’s medical condition, the degree of incapacitation, and the duration of the medical illness.

In this instance, petitioner has not provided sufficient evidence at this time to show that “but for” Ms. Foreman’s medical condition, the maintenance fee would have been timely paid. The Office is particularly interested in the duration of Ms. Foreman’s medical condition - the date of when Ms. Foreman’s medical condition began until the date she sought treatment. Petitioner may wish to

provide a statement from her treating physician. Additionally, petitioner should submit a statement from Ms. Foreman explaining in detail the exact actions or inactions she took with regard to the docketing and timely paying of the maintenance fees for this patent. The present statements submitted on petition provide the Office with generalities as to the actions/inactions of Ms. Foreman that ultimately resulted in the delayed payment of the maintenance fees.

In summary, petitioner must show that Ms. Foreman's medical condition was the cause of the error in failing to timely pay the maintenance fee; her condition was of such a degree of severity that it prevented her from performing specific duties with regard to the docketing and paying of the maintenance fee for this patent; and that her condition spanned the entire period from the due date for the maintenance fee until the date of the filing of a grantable petition. Without any further explanation or documentary evidence, the Office is left to speculate as to the circumstances that transpired.

The Office cautions petitioner to remove or mark through any personal information in any document submitted to the USPTO that could contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioner should consider deleting such personal information from the documents before submitting them to the USPTO. Petitioner is advised that the patent file is available to the public after the issuance of a patent. However, checks and credit card authorization forms (PTO-2038) submitted for payment purposes are not retained in the application file, and therefore, are not publicly available.

For the reasons stated, the petition is **dismissed**.

Petitioner should note that if this petition under 37 CFR 1.378(b)/(e) is not renewed, or if renewed and not granted, petitioner may obtain a refund of the maintenance fee and post-expiration surcharge. The \$400.00 petition fee for seeking further reconsideration is not refundable.

Any request for refund should be in writing to the following address:

Mail Stop 16
Director of the US Patent and Trademark Office
PO Box 1450
Alexandria, VA 22313-1450

A copy of this decision should accompany petitioner's request.

The Office charged the deposit account for the \$1,240.00 maintenance fee due at 7.5 years and the \$700.00 surcharge after expiration as authorized.

Patent No. 6,098,924
Application No. 09/236,188

Page 5

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

By FAX: (571) 273-8300
 Attn: Office of Petitions

By hand: Customer Services Window
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

Correspondence may also be submitted electronically via EFS-Web.

The patent file is being returned to Files Repository.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3211.



Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

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Leonard Tachner
Suite 38-E
17961 Sky Park Circle
Irvine, CA 92614

MAILED

OCT 06 2011

In re Patent of Woodward et al.	:	OFFICE OF PETITIONS
Patent No. 6,098,924	:	
Issue Date: August 8, 2000	:	Request for Information
Application No. 09/236,188	:	
Filing Date: January 23, 1999	:	
Attorney Docket No. CSUF-12	:	

Request for Information

This communication responds to a renewed petition under 37 C.F.R. § 1.378(b) filed April 11, 2011.

By Petitioner's own admission, the Tachner firm, or persons employed by that firm, have not been truthful with the USPTO. Furthermore, there is a specter of bias in the declaration of Dr. Albert since, at the time of his diagnosis, he was not Janis Foreman's doctor and he was paid to provide his opinion by Mr. Tachner. The record fails to include any evidence corroborating Dr. Albert's diagnosis. Given the circumstances of this case, corroborating evidence for Dr. Albert's diagnosis is required.

It is extremely odd that the people that were closest to Ms. Foreman did not notice that, as stated by Dr. Albert, she exhibited "destabilizing behavior" or that "she lost her sense of reality" or "lost her sense of proportionality." Further, as stated in Mr. Tachner's declaration, it appears that for about two years, Ms. Foreman was failing to bill clients or pay firm obligations even though the performance of these tasks appears to have been her primary duty. Therefore, it is not clear from the record how Mr. Tachner could have failed to recognize Ms. Foreman was failing to properly bill clients and pay firm obligations.

In response to the instant request for information, Petitioner is required to provide a rebuttal to all the assertions set forth in the petition filed July 21, 2010 in U.S. Patent No. 6,205,885.¹ Furthermore, Petitioner must explain why the current explanation provided in this case is any more believable than other explanations previously provided. Petitioner is required to provide

¹ A copy of the petition can be accessed using the Office's Public Patent Application Information Retrieval system located at <http://portal.uspto.gov/external/portal/pair>.

corroborating evidence of Ms. Foreman's condition from a source that is independent of Dr. Albert. Additionally, Petitioner must fully discuss how the actions of Ms. Foreman, with regard to the docket, went undetected from early 2005 until January 2011. Further, Petitioner must explain how Ms. Foreman's failure to bill clients and pay firm obligations went undetected from early 2005 until the end of 2007.

Petitioner must submit the requested information within TWO MONTHS of the mailing date of this letter. Extensions of time may not be obtained. No additional fee is due for a response to the instant request for information. The response to this Requirement for Information should include a cover letter entitled "Response to Request for Information." The failure to file a reply to the instant Request for Information will be interpreted as a desire to no longer pursue reinstatement of the patent and the Office will give no further consideration to the matter.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

A handwritten signature in black ink, appearing to read "Anthony Knight", is positioned above the printed name.

Anthony Knight
Director
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No.	6816171	:
Issue Date:	November 9, 2004	
Application No.	09236402	:DECISION GRANTING PETITION
Filed:	January 25, 1999	:UNDER 37 CFR 1.378(c)
Attorney Docket No.	1288.1017/MD	:

This is a decision on the electronic petition, filed September 13, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 13, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**WILMERHALE/DC
1875 PENNSYLVANIA AVE., NW
WASHINGTON DC 20006**

MAILED

JUL 19 2011

OFFICE OF PETITIONS

In re Patent No. 6,278,980 :
Issue Date: August 21, 2001 :
Application No. 09/237,866 :
Filed: January 27, 1999 :
Attorney Docket No. 112961.206 :

ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed May 19, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on August 22, 2009 for failure to pay the second maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The file does not indicate a change of address from a proper party of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed; however, the Office will mail all future correspondence solely to the address of record.

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

Cc:

**WINSTON & STRAWN LLP
PATENT DEPARTMENT
1700 K STREET, N.W.
WASHINGTON DC 20006**



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No.	6389579	:
Issue Date:	May 14, 2002	:
Application No.	09238648	:DECISION GRANTING PETITION
Filed:	January 26, 1999	:UNDER 37 CFR 1.378(c)
Attorney Docket No.	032001-019	:

This is a decision on the electronic petition, filed October 19, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 19, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6389579	2002-05-14	09238648	1999-01-26	032001-019

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input checked="" type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Kendal M. Sheets/	Date (YYYY-MM-DD)	2010-10-19
Name	Kendal M. Sheets	Registration Number	47077
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,328,714	2001-12-11	09/239,592	1999-01-29	PWDRNZ00600

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input checked="" type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Steven M. Giovannetti/	Date (YYYY-MM-DD)	2011-03-02
Name	Steven M. Giovannetti	Registration Number	51739
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

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2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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P.O. Box 1450
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In re Patent No. 6328714 :
Issue Date: December 11, 2001 :
Application No. 09239592 :DECISION GRANTING PETITION
Filed: January 29, 1999 :UNDER 37 CFR 1.378(c)
Attorney Docket No. OPF22 :

This is a decision on the electronic petition, filed March 2, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 2, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



UNITED STATES PATENT AND TRADEMARK OFFICE

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Ying Chen
255 S. Grand Ave., #215
Los Angeles, CA 90012

MAILED

FEB 03 2012

OFFICE OF PETITIONS

In re Patent No. 6,160,543
Issued: 12/12/2000
Application No. 09/239,702
Filed: 01/29/1999
Attorney Docket No. EM/CHEN/4341

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NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed January 10, 2012.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6313646 :
Issue Date: November 6, 2001 :
Application No. 09240658 :DECISION GRANTING PETITION
Filed: February 2, 1999 :UNDER 37 CFR 1.378(c)
Attorney Docket No. :

This is a decision on the electronic petition, filed March 24, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 24, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6313646	2001-11-06	09240658	1999-02-02	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input checked="" type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☐ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☒ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

The Assignee of record of the entire interest			
Under 37 CFR 3.71 an assignee becomes of record by filing a statement in compliance with 37 CFR 3.73(b). Signature requirements are set forth in 37 CFR 1.4(d), and the undersigned certifies that he / she is empowered to act on behalf of the assignee of the entire interest			
Signature	/Chester M.Dacres/		Date (YYYY-MM-DD) 2011-03-24
Name	Chester M. Dacres		
Enter Reel and Frame Number			<input type="button" value="Remove"/>
Reel Number	011527	Frame Number	0659
Click ADD for additional Reel Number and Frame Number			<input type="button" value="Add"/>
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

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The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/21/10

TO SPE OF : ART UNIT 3625

SUBJECT : Request for Certificate of Correction for Appl. No.: 09241188 Patent No.: 7216091

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

**Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580**

You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

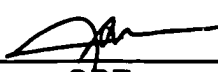
Specify below which changes do not apply.

☐ **Denied**

State the reasons for denial below.

Comments: _____

JEFFREY A. SMITH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600


SPE

3625
Art Unit

11/22/10



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

MAILED
SEP 29 2010
OFFICE OF PETITIONS

In re Patent No. 6,463,462	:	
Issue Date: October 8, 2002	:	
Application No. 09/241,807	:	NOTICE
Filed: February 2, 1999	:	
Attorney Docket No. DLGC.003A	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110727

DATE : February 26, 2009

TO SPE OF : ART UNIT 2611

SUBJECT : Request for Certificate of Correction on Patent No.: 09/244,037

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:

Certificates of Correction Branch - ST (South Tower) 9A22

Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Certificates of Correction Branch

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

Comments:

The reference was cited on PTO-Form 892, as part of the Final Office Action dated 05/17/2000. A copy of PTO-Form 892 was missing from eDan and enclosed herein for scanning into eDan.

/David C. Payne/
Supervisory Patent Examiner, Art Unit 2611



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/244,353	02/04/1999	HARLAN C AMSTUTZ	310172/12	3654
8933 7590 09/08/2010 DUANE MORRIS LLP - Philadelphia IP DEPARTMENT 30 SOUTH 17TH STREET PHILADELPHIA, PA 19103-4196				
			EXAMINER ROBERT, EDUARDO C	
			ART UNIT 3732	PAPER NUMBER
			MAIL DATE 09/08/2010	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DUANE MORRIS LLP
IP DEPARTMENT
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103-4196

In re Patent No. 6,156,069
Issue Date: December 5, 2000
Serial No.: 09/244,353
Filed: February 4, 1999
For Correction of Inventorship

:
:
: PETITION DECISION
: 37CFR 1.324
:

This is a decision on the Petition filed November 17, 2003, to correct inventorship under 37 CFR 1.324.

The petition is GRANTED.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.


Eduardo Robert
SPE/TC/3700

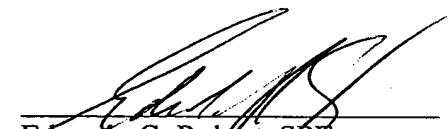


UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DATE: June 19, 2008
TO: Certificates of Correction Branch
FROM: Eduardo C. Robert
SPE, Art Unit 3733
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 6,156,069 as specified on the attached Certificate.



Eduardo C. Robert, SPE
Art Unit 3733




UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DATE: June 19, 2008
TO: Certificates of Correction Branch
FROM: Eduardo C. Robert
SPE, Art Unit 3733
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 6,156,069 as specified on the attached Certificate.



Eduardo C. Robert, SPE
Art Unit 3733

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

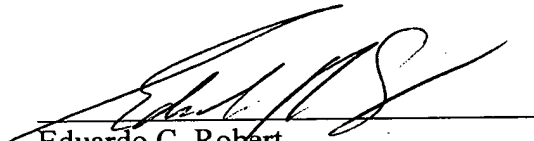
Patent No. 6,156,069
Patented: Dec. 5, 2000

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 U.S.C. 256, it has been found that the above identified patent, through error and without deceptive intent, improperly sets forth the inventorship. Accordingly, it is hereby certified that the correct inventorship of this patent is:

Harlan C. Amstutz, M.D., 900 Napoli Dr., Pacific Palisades, California 90272

Albert L. Lippincott III, 3150 E. 200th Street, Prior Lake, Minnesota 55372

Carlos E. Gil, 1707 Powell Run Cove Collierville, TN 38017



Eduardo C. Robert
Supervisory Patent Examiner
Art Unit 3733



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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PANDISCIO & PANDISCIO
470 TOTTEN POND ROAD
WALTHAM MA 02451

MAILED

JUL 18 2011

OFFICE OF PETITIONS

In re Application of :
Joseph H. Sklar :
Application No. 09/248,523 :
Filed: February 9, 1999 :
Attorney Docket No. **SKLAR-7** :

NOTICE

This is a notice regarding your request filed June 14, 2011, for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Margaret M. Carley appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If, Margaret M. Carley desires to be acknowledged as the attorney of record in this file, the appropriate power of attorney documents must be submitted.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ANN R. POKALSKY, ESQ.
NIXON PEABODY LLP
990 STEWART AVENUE
GARDEN CITY, NY 11530-4838

MAILED

JAN 04 2012

OFFICE OF PETITIONS

In re Patent No. 6,153,188
Issue Date: November 28, 2000
Application No. 09/249,003
Filed: February 12, 1999
Patentee: Peter J. Wilson, et. al.

NOTICE

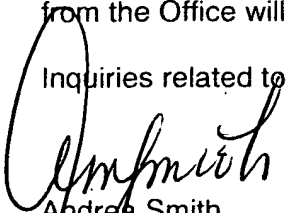
This is a Notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed on December 1, 2011.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**. Therefore, status as a small entity has been removed and any future fee(s) submitted must be paid at the large entity rate.

Additionally, it is not apparent whether the present request is signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Ann R. Pokalsky appearing on the request shall constitute a representation to the United States Patent and Trademark Office that she is authorized to represent the particular party in whose behalf she acts. A courtesy copy of this Notice is being mailed to the address given in the present request. Thereafter, all future communications from the Office will be directed to the address of record unless otherwise instructed.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3226.


Andrea Smith
Petitions Examiner
Office of Petitions

cc: Dilworth & Barrese, LLP
1000 Woodbury Road, Suite 405
Woodbury, NY 11797



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450

MAILED

AUG 05 2011

OFFICE OF PETITIONS

**JOYCE KOSINSKI
PATENT ADMINISTRATOR
LORAL SPACE AND COMMUNICATIONS
655 DEEP VALLEY DRIVE SUITE 303
ROLLING HILLS ESTATES CA 90274**

In re Patent No.: 6,307,833 :
Issue Date: October 23, 2001 :
Application No. 09/249,895 :
Filed: February 16, 1999 :
Atty. Docket No. CY-99006 :

This is a decision on the petition under 37 CFR 1.378(c), filed July 11, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

Any petition for reconsideration of this decision must be accompanied by the petition fee of \$400 as set forth in 37 CFR 1.17(f). The petition for reconsideration must include the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.


This patent expired on October 24, 2009 for failure to pay the seven and one-half year maintenance fee.

37 CFR 1.378(d) requires any petition under 37 CFR 1.378 to be signed by an attorney or agent registered to practice before the United States Patent and Trademark Office, or by the patentee, the assignee, or other party in interest. The present petition is unsigned.

While a courtesy copy of this decision is being mailed to the petitioner, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

If this petition not renewed or if renewed and not granted, then petitioner may request a refund of the maintenance and surcharge fees paid. The fee for requesting reconsideration is not refundable.

Telephone inquiries regarding this decision should be directed to Robert DeWitty,
Petitions Attorney, Office of Petitions (571-272-8427).


for Anthony Knight
Director
Office of Petitions

cc: Telesat Network Services, Inc.
135 Routes 202/206
Bedminster, New Jersey 07921



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450

**JOYCE KOSINSKI
PATENT ADMINISTRATOR
LORAL SPACE AND COMMUNICATIONS
655 DEEP VALLEY DRIVE SUITE 303
ROLLING HILLS ESTATES CA 90274**

MAILED

OCT 03 2011

In re Patent No.: 6,307,833 :
Issue Date: October 23, 2001 :
Application No. 09/249,895 :
Filed: February 16, 1999 :
Atty. Docket No. CY-99006 :

OFFICE OF PETITIONS

This is a decision on the renewed petition under 37 CFR 1.378(c), filed September 28, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on October 24, 2009 for failure to pay the seven and one-half year maintenance fee.

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mailing date of this decision.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

Telephone inquiries regarding this decision should be directed to Robert DeWitty,
Petitions Attorney, Office of Petitions (571-272-8427).

for 
Anthony Knight
Director
Office of Petitions

cc: Janik Marcovici
99 Hawley Lane
Stratford, CT 06614



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No.	6196055	:
Issue Date:	March 6, 2001	:
Application No.	09250622	:DECISION GRANTING PETITION
Filed:	February 16, 1999	:UNDER 37 CFR 1.378(c)
Attorney Docket No.	980111011	:

This is a decision on the electronic petition, filed September 14, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 14, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6196055	2001-03-06	09250622	1999-02-16	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input checked="" type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Stephen E. Reiter/	Date (YYYY-MM-DD)	2010-09-14
Name	Stephen E. Reiter	Registration Number	31192
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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JUL 26 2011

OFFICE OF PETITIONS

NEIFELD IP LAW, PC
4813-B EISENHOWER AVENUE
ALEXANDRIA VA 22304

In re Patent No. 7,958,224 :
Amjadi : DECISION DISMISSING
Application No. 09/251,480 : REQUEST FOR
Issue Date: June 7, 2011 : RECONSIDERATION OF
Filed: February 17, 1999 : PATENT TERM ADJUSTMENT
Attorney Docket No. : UNDER 37 CFR 1.705
INVE0012-1 :

This is in response to the "37 CFR 1.701 Application for Patent Term Extension" filed June 23, 2011. The petition is properly treated under 37 CFR 1.705(d)¹. Patentee requests that the determination of patent term adjustment be corrected from eight hundred and seventy-six (876) days to one thousand, one hundred and sixty-five (1,165) days.

The request for reconsideration of patent term adjustment is **DISMISSED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. § 154(b) of 876 days.

No consideration will be given to patentee's assertion that the reduction to the patent term adjustment should be no more than 92 days or to patentee's assertion that the "C" delay for successful appeal is 1,257 days rather than 1,258 days. Further to this point, PALM records indicate that the issue fee payment was received in the Office on January 9, 2011. No application for patent term adjustment under 37 CFR 1.705(b) preceded the payment of the issue fee. The period for filing an application for patent term adjustment requesting reconsideration of the initial determination of patent term adjustment at the time of

¹ It is noted that a Continued Prosecution Application (CPA) was filed August 28, 2002. The application is, therefore, subject to adjustment of the patent term under the Patent Term Guarantee Act of 1999, which applies to original applications (other than design applications) filed on, or after May 29, 2000.

mailing of the notice of allowance ended January 9, 2011. Accordingly, it is appropriate to dismiss this petition as untimely filed under § 1.705(b).

Further, consideration under § 1.705(d) is not appropriate. As stated in MPEP 2730, § 1.703(d) provides that:

If there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. If the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section. Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues.

The issues presented in the instant petition should have been timely raised on application for patent term adjustment under § 1.705(b). Thus, no additional adjustment to the patent term will be entered.

Patentees presented no argument under 37 CFR 1.705(d) relative to the adjustments and/or reductions which were entered, or should have been entered, pursuant to 37 CFR 1.704(c)(10) or 37 CFR 1.702(b)

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is eight hundred and seventy-six (876) days.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No.	6143392	:
Issue Date:	November 7, 2000	:
Application No.	09251673	:DECISION GRANTING PETITION
Filed:	February 17, 1999	:UNDER 37 CFR 1.378(c)
Attorney Docket No.	5-1295-001	:

This is a decision on the electronic petition, filed September 3, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 3, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,143,392	2000-11-07	09/251,673	1999-02-17	3583.001

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|---------------------------------|-----|--------|
| <input type="radio"/> 3 ½ year | | (1551) |
| <input type="radio"/> 7 ½ year | | (1552) |
| <input type="radio"/> 11 ½ year | | (1553) |

Small Entity

- | | Fee | Code |
|---|-----|--------|
| <input type="radio"/> 3 ½ year | | (2551) |
| <input checked="" type="radio"/> 7 ½ year | | (2552) |
| <input type="radio"/> 11 ½ year | | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☐ An attorney or agent registered to practice before the Patent and Trademark Office
- ☒ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Sole Patentee			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/John M Hughes/	Date (YYYY-MM-DD)	2010-09-03
Name	John M. Hughes		
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6198502	2001-03-06	09252265	1999-02-18	2170162-00008

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|---------------------------------|-----|--------|
| <input type="radio"/> 3 ½ year | | (1551) |
| <input type="radio"/> 7 ½ year | | (1552) |
| <input type="radio"/> 11 ½ year | | (1553) |

Small Entity

- | | Fee | Code |
|---|-----|--------|
| <input type="radio"/> 3 ½ year | | (2551) |
| <input checked="" type="radio"/> 7 ½ year | | (2552) |
| <input type="radio"/> 11 ½ year | | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☐ An attorney or agent registered to practice before the Patent and Trademark Office
- ☒ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Sole Patentee			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/d scott watkins/	Date (YYYY-MM-DD)	2010-11-08
Name	D. Scott Watkins		
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6198502 :
Issue Date: March 6, 2001 :
Application No. 09252265 :DECISION GRANTING PETITION
Filed: February 18, 1999 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 6W101-021 :

This is a decision on the electronic petition, filed March 5, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 5, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HELLER EHRMAN LLP
4350 La Jolla Village Drive, 7th Floor
San Diego CA 92122

MAILED
MAR 23 2012
OFFICE OF PETITIONS

In re Patent No. 6,670,147	:	
Issue Date: December 30, 2003	:	
Application No. 09/256,237	:	ON PETITION
Filed: February 24, 1999	:	
Attorney Docket No. 026083/0195	:	

This is a decision on the petition under 37 CFR 1.378(c), filed February 7, 2012 to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on December 31, 2011, for failure to pay the seven and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

The patent file is being forwarded to Files Repository.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Fernando Santos
800 Dwight Way
Berkeley, CA 94710



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No.	6464423	:
Issue Date:	October 15, 2002	:
Application No.	09256252	:DECISION GRANTING PETITION
Filed:	February 23, 1999	:UNDER 37 CFR 1.378(c)
Attorney Docket No.	74850	:

This is a decision on the electronic petition, filed January 20, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 20, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

MAILED

Paper No.

JUN 30 2011

OFFICE OF PETITIONS

JAMES M. LEAS, ESQ.
37 BUTLER DRIVE
SOUTH BURLINGTON VT 05403

In re Application of :
Dawson :
Application No. 09/259,420 :
Patent No. 6,478,504 : DECISION ON PETITION
Filed: February 26, 1999 : UNDER 37 C.F.R. § 1.378(C)
Issue Date: November 12, 2002 :
Attorney Docket Number: 834DAW :
Title: HUB WITH INTEGRAL KEY :
AND INTEGRAL POSITIONING STOP :

This is a decision on the petition filed pursuant to 37 C.F.R. § 1.378(c) on February 1, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

This petition pursuant to 37 C.F.R. § 1.378(c) is **GRANTED**.

The patent issued on November 12, 2002. The grace period for paying the 7½-year maintenance fee provided in 37 C.F.R. § 1.362(e) expired at midnight on November 12, 2010, with no payment received. Accordingly, the patent expired on November 12, 2010 at midnight.

A grantable petition pursuant to 37 C.F.R. § 1.378(c) must be accompanied by:

- (1) The maintenance fee as set forth in 37 C.F.R. §§ 1.362(e) and 1.20;
- (2) The surcharge for accepting a maintenance fee after expiration of a patent for non-timely payment of a maintenance fee, as set forth in 37 C.F.R. § 1.20;
- (3) A statement that the delay was unintentional from a proper party in interest, and;

- (4) The petition must be filed within 24 months of the date of expiration.

37 C.F.R. § 1.378(c)(3) requires a statement that the delay in payment of the maintenance fee was unintentional. Since the statement contained in this petition varies from the language required by 37 C.F.R. § 1.378(c)(3), the statement contained in this petition is being construed as the statement required by 37 C.F.R. § 1.378(c)(3) and Petitioner must notify the Office if this is not a correct interpretation of the statement contained in this petition.

With this petition, Petitioner submitted the surcharge associated with a petition to accept late payment of a maintenance fee as unintentional, the 7½-year maintenance fee, and a statement that is being construed as the proper statement of unintentional delay. This petition was timely filed within twenty-four months after the expiration of the six-month grace period.

Petitioner has met each of the requirements of Rule 1.378(c).

Accordingly, the maintenance fee in this case is hereby accepted and the above-identified patent is hereby reinstated as of the mail date of this decision.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If Petitioner desires to receive future correspondence regarding this patent, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to the address which appears on the petition. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this patent unless Change of Correspondence Address, Patent Form (PTO/SB/123) is submitted for the above-identified patent. For Petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/123), may be found at <http://www.uspto.gov/web/forms/sb0123.pdf>.

If appropriate, a change of fee address (form PTO/SB/47) and a request for customer number (form PTO/SB/125) should be filed in accordance with Manual of Patent Examining Procedure, section 2540.

A blank fee address form may be found at
<http://www.uspto.gov/web/forms/sb0047.pdf>.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.¹ Inquiries pertaining to the submission of maintenance fees should be directed to the Maintenance Fee branch at 571-272-6500.

/Paul Shanowski/
Paul Shanowski
Senior Attorney
Office of Petitions

cc: TYLER DAWSON
399 BARBER ROAD
ST GEORGE, VT 05485

¹ Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6269438	2001-07-31	09259980	1999-03-01	002379.P021C

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input checked="" type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Kendal M. Sheets/	Date (YYYY-MM-DD)	2010-10-01
Name	Kendal M. Sheets	Registration Number	47077
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6269438 :
Issue Date: July 31, 2001 :
Application No. 09259980 :DECISION GRANTING PETITION
Filed: March 1, 1999 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 002379.P021C :

This is a decision on the electronic petition, filed October 4, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 4, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/260,163	03/01/1999	HARLAN C. AMSTUTZ	310172/13	6181
8933 7590 09/08/2010 DUANE MORRIS LLP - Philadelphia IP DEPARTMENT 30 SOUTH 17TH STREET PHILADELPHIA, PA 19103-4196			EXAMINER ROBERT, EDUARDO C	
			ART UNIT 3732	PAPER NUMBER
			MAIL DATE 09/08/2010	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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DUANE MORRIS LLP
IP DEPARTMENT
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103-4196

In re Patent No. 6,063,124

Issue Date: May 16, 2000

Serial No.: 09/260,163

Filed: March 1, 1999

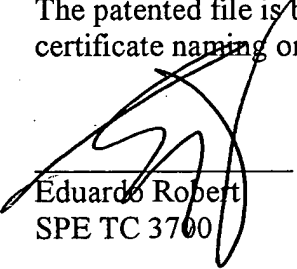
For Correction of Inventorship

:
:
: PETITION DECISION
: 37CFR 1.324
:

This is a decision on the Petition filed November 17, 2003, to correct inventorship under 37 CFR 1.324.

The petition is **GRANTED**.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.


Eduardo Robert
SPE TC 3700



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DATE: September 01, 2010
TO: Certificates of Correction Branch
FROM: Eduardo C. Robert
SPE, Art Unit 3733
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U.S. Letter Patent No. 6,063,124 as specified on the attached Certificate.

A handwritten signature in black ink, appearing to read "Eduardo C. Robert", is positioned above the printed name.

Eduardo C. Robert
SPE, Art Unit 3733

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

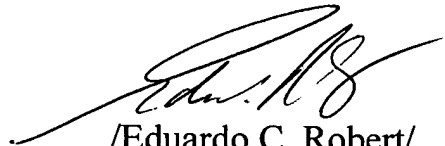
Patent No. 6,063,124

Patented: May 16, 2000

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 U.S.C. 256, it has been found that the above-identified patent, through error and without deceptive intent, improperly sets forth the inventorship. Accordingly, it is hereby certified that the correct inventorship of this patent is:

Harlan C. Amstutz, Pacific Palisades, California

Albert L. Lippincott III, Prior Lake, Minnesota

A handwritten signature in black ink, appearing to read 'Eduardo C. Robert', with a stylized flourish at the end.

/Eduardo C. Robert/
Supervisory Patent Examiner
Art Unit 3733



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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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THOMAS A. O'ROURKE
WYATT GERBER MELLER & O'ROURKE
99 PARK AVENUE
NEW YORK NY 10016

MAILED

NOV 30 2010

OFFICE OF PETITIONS

In re Application of
Charles E. MELINO, et al
Application No. 09/262,656
Filed: March 4, 1999
Attorney Docket No. MELINO-2

CORRECTED
DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 19, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file pay the issue fee on or before April 4, 2001, as required by the Notice of Allowance and Fee(s) Due, mailed January 4, 2001, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on April 5, 2001.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the issue fee and drawings; (2) the petition fee of \$750; and (3) the required statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

The Power of Attorney filed October 19, 2009, cannot be accepted because it is not signed by all applicants nor is it signed by an assignee who has properly become of record under 37 CFR 3.71.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

The application is being referred to the Office of Data Management for processing into a patent.

/DCG/

Diane C. Goodwyn
Petitions Examiner
Office of Petitions

Cc: STEVEN N. FOX, ESQ.
P.O. BOX 251
CANTON, MA 02021



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**CHARLES E. MELINO
246 WELFARE AVE.
WARWICK RI 02888**

MAILED

NOV 30 2010

OFFICE OF PETITIONS

In re Application of	:	
Charles E. MELINO, et al	:	
Application No. 09/262,656	:	DECISION ON REQUEST FOR
Filed: March 4, 1999	:	REVOCATION OF POWER
Attorney Docket No. MELINO-2	:	OF ATTORNEY

This is a decision on the Request to Revoke the attorney or agent of record under 37 C.F.R. § 1.36(a), filed October 19, 2009.

The request is **NOT APPROVED**.

A power of attorney, pursuant to § 1.32(b), may be revoked at any stage in the proceeding of a case by an applicant for patent (§ 1.41(b)) or an assignee of the entire interest of the applicant under § 3.71(b). Fewer than all of the applicants (or by fewer than the assignee of the entire interest of the applicant) may only revoke the power of attorney upon a showing of sufficient cause, and payment of the petition fee set forth § 1.17(h). For the assignee to take action a proper statement under § 3.73(b) is required.

The request cannot be approved because it was signed by fewer than all applicants.

All future communications from the Office will be directed to the below address until otherwise notified by applicant, however, the power of attorney remains the same.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

Cc: THOMAS A. O'ROURKE
WYATT GERBER MELLER & O'ROURKE
99 PARK AVENUE
NEW YORK NY 10016



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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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STEVEN N. FOX, ESQ.
62 SOUTH MAIN STREET
SHARON MA 02067

MAILED
AUG 23 2011
OFFICE OF PETITIONS

In re Application of :
Charles E. MELINO, et al : **DECISION ON PETITION**
Application No. 09/262,656 :
Filed: March 4, 1999 :
Attorney Docket No. 2007-115 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 10, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply to the Office letter mailed February 14, 2011, which Applicant was given one (1) month to respond. Accordingly, the application became abandoned on March 15, 2011. A Notice of Abandonment was mailed March 30, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of \$810; and (3) the required statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

The application is being referred to the Office of Data Management for further processing.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions



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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DW Jun-11

Paper No. 15

KARL S SAWYER JR
KENNEDY COVINGTON LOBDELL & HICKMAN
SUITE 4200
100 NORTH TRYON STREET
CHARLOTTE NC 28202

MAILED

JUN 23 2011

OFFICE OF PETITIONS

In re Patent No. 6,059,140 :
Issue Date: 05/09/2000 :
Application Number: 09/263,127 : LETTER DISMISSING PETITION
Filing Date: 03/05/1999 :
Attorney Docket Number: :
17958.001 :
:

This is a letter in reference to the paper filed on May 20, 2011, regarding the second maintenance fee payment for the above-referenced patent, which is treated as a petition under 37 CFR 1.377.

The petition is dismissed.

The patent issued on May 9, 2000. The first maintenance fee was timely paid. The second maintenance fee could have been paid from May 9 through November 9, 2007, or, with a surcharge, from November 10, 2007, through May 9, 2008. The patent expired at midnight on May 9, 2008, for failure to timely pay the second maintenance fee.

Patentee asserts that the second maintenance fee was timely paid via a check submitted to the USPTO on October 10, 2007.

At the outset, pursuant to MPEP 2575, 37 CFR 1.377 provides a mechanism for review of a decision refusing to accept and record payment of a maintenance fee filed prior to the expiration of a patent. 37 CFR 1.377(a) permits a patentee who is dissatisfied with the refusal of the Office to accept and record a maintenance fee which was filed prior to the expiration of the patent to petition the Director to accept and record the maintenance fee.

Any petition filed under 37 CFR 1.377 must be filed within 2 months of the action complained of, or within such other time as may be set in the action complained of. The petition must be accompanied by the proper petition fee (37 CFR 1.17(g)). The petition may include a request that the petition fee be refunded if the refusal to accept and record the maintenance fee is determined to have resulted from an error by the Office.

The proper fee for a petition under 37 CFR 1.377 has not been submitted however. A petition fee of \$200.00 is required upon filing of a petition under 37 CFR 1.377. Patent and trademark fees and charges payable to the Patent and Trademark Office are required to be paid in advance, that is, at the time of requesting any action by the Office for which a fee or charge is payable.¹ As such, the petition fee is a prerequisite to the filing of the present petition, and the Office will not reach the merits of the petition unless and until the petition fee is submitted. Any request for reconsideration of this petition must be accompanied by the petition fee.

Furthermore, the papers filed are unsigned. 37 CFR 1.377 requires that any petition filed thereunder must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest. If the petition is signed by an assignee, a Statement Under 37 CFR 3.73(b) must be submitted with the petition.

Furthermore, a review of Office financial records does not reveal that any payment was received. Petitioner must show, in any renewed petition, that the maintenance fee was proffered to the USPTO prior to May 9, 2008. Petitioner should submit a copy of any cancelled check, bank statement, or other evidence showing that the payment of the second maintenance fee was **actually received** by the USPTO.

The address in the petition is different than the correspondence address. A courtesy copy of this decision is being mailed to the address in the petition. All future correspondence, however, will be mailed solely to the address of record. A change of correspondence address should be filed if the correspondence address needs to be updated.

¹ 37 CFR 1.22(a).

Additionally, the appropriate revocation and/or new power of attorney should be filed if the attorney information is no longer current.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

By FAX: (571) 273-8300
 Attn: Office of Petitions

By hand: Customer Service Window
 Mail Stop Petition
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

The application will be retained in the Office of Petitions for TWO (2) MONTHS to await petitioners' response to this communication.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Form PTO/SB/81A
 Form PTO/SB/96
 Form PTO/SB/123

cc: CUSTOM PRINTING II, LTD.
 2402 EAST SIXTH AV
 PO BOX 804
 BELTON TX 76513



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Commissioner for Patents
United States Patent and Trademark Office
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Paper No.

CUSTOM PRINTING, INC.
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BELTON TX 76513

MAILED

AUG 19 2011

OFFICE OF PETITIONS

In re Patent No. 6,059,140 :
Issue Date: 05/09/2000 :
Application Number: 09/263,127 : ON PETITION
Filing Date: 03/05/1999 :
Attorney Docket Number: :
17958.001 :
:

This is a decision on the petition, filed on July 15, 2011, regarding the second maintenance fee payment for the above-referenced patent, which is treated as a petition under 37 CFR 1.377.

The petition is dismissed.

The patent issued on May 9, 2000. The first maintenance fee was timely paid. The second maintenance fee could have been paid from May 9 through November 9, 2007, or, with a surcharge, from November 10, 2007, through May 9, 2008. The patent expired at midnight on May 9, 2008, for failure to timely pay the second maintenance fee.

On May 20, 2011, an unsigned paper styled as a petition under 37 CFR 1.377 was filed. On June 23, 2011, the Office mailed a letter dismissing the petition.

Patentee again asserts that the second maintenance fee was timely paid via a check submitted to the USPTO on October 10, 2007. Patentee further states that when the third maintenance fee was submitted, it was returned by the USPTO for failure to timely pay the second maintenance fee. Patentee has included a copy of the check sent in payment of the second maintenance fee.

A grantable petition under 37 CFR 1.377 to accept and record a maintenance fee requires:

- (1) submission of the petition be submitted within two months of the action complained of;
- (2) payment of the petition fee;
- (3) proof that the maintenance fee, and any applicable surcharge, was received in the Office prior to the date of patent expiration, and
- (4) proof that proper identification of the under 37 CFR 1.366(c) was submitted with the maintenance fee payment.

The petition lacks item (3).

In regard to item (3), above, the showing of record does not adequately establish that a maintenance fee payment for U.S. Patent No. 6,059,140 was timely received in the USPTO prior to the date of patent expiration.

Specifically, while petitioners have provided a copy of the check stub purportedly showing that the second maintenance fee was sent on October 10, 2007, there is no showing that the payment was actually received at the USPTO.

In this regard, a review of Office financial records indicates that no payment was received on October 10, 2007, in the USPTO. Petitioner is asked to explain whether the check was cashed. If petitioner has a copy of the cancelled check, a copy of the front and back of the check should be submitted with any renewed petition. If any other correspondence (i.e., a transmittal letter) sent to the Office with the fee payment, a copy of said correspondence should be provided to assist in determining whether or not the payment was actually received in the Office.

Any renewed petition under 37 CFR 1.377 should include evidence as would reasonably establish that the second maintenance fee payment for the present patent was actually received in the Office. Acceptable evidence would include an Express Mail receipt showing the request to pay the maintenance fee, and payment thereof, was mailed using the Express Mail procedure under 37 CFR 1.10, or a Certificate of Mailing under 37 CFR 1.8 showing that the request and payment was mailed by that procedure. Additionally, if a return receipt postcard was sent to the Office with the payment in accordance with MPEP 503, a copy of the postcard returned to petitioner, showing the date of receipt in the USPTO, should be enclosed as well.

Accordingly, the showing of record is that petitioner intended or attempted to timely send the maintenance fee payment to the USPTO, but not that the payment was actually received in the USPTO.

Absent an acceptable showing that not only was the payment mailed on or before the date of expiration of the patent, but also that the payment was actually received in the Office, petitioners may wish to file a renewed petition under 37 CFR 1.378(b), since 37 CFR 1.377 applies only to instances where the payment was actually received in the Office, but the Office did not accept that payment.

Accordingly, the petition is **dismissed** for a lack of evidence showing that the maintenance fee payment was timely received in the Office.

Any renewed petition should be submitted within **TWO (2) MONTHS** to be considered timely. This time period is not extendable.¹

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

By FAX: (571) 273-8300
 Attn: Office of Petitions

By hand: Customer Service Window
 Mail Stop Petition
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

A reply may also be filed via the EFS-Web filing system of the USPTO.

¹ 37 CFR 1.181(f).

Patent No. 6,059,140
Application No. 09/263,127

4

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions



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Paper No.

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NOV 03 2011

OFFICE OF PETITIONS

In re Patent No. 6,059,140 :
Issue Date: 05/09/2000 :
Application Number: 09/263,127 : ON PETITION
Filing Date: 03/05/1999 :
For: INSULATED JACKET FOR A :
BEVERAGE CONTAINER AND BLANK :
AND METHOD FOR FABRICATING SAME :

This is a decision in response to the petition under 37 CFR 1.378(b),¹ filed on October 3, 2011, to accept the delayed payment of the maintenance fee for the above-identified patent.

The petition is dismissed.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this 2-month time limit can be granted under 37 CFR 1.136(a) or (b). Any such petition for reconsideration must be accompanied by the petition fee of \$400.00 as set forth in 37 CFR 1.17(f). The petition for reconsideration should include an exhaustive attempt to provide the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

¹ A grantable petition to accept a delayed maintenance fee payment under 37 CFR 1.378(b) must be include

- (1) the required maintenance fee set forth in § 1.20(e) through (g);
- (2) the surcharge set forth in § 1.20(I)(1); and
- (3) a showing that the delay was unavoidable since reasonable care was

taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

The patent issued on May 9, 2000. The first maintenance fee was accepted on petition under 37 CFR 1.738(c) granted on September 23, 2004. The second maintenance fee could have been paid during the period from May 9 through November 9, 2007 or, with a surcharge, during the period from November 10, 2007, through May 9, 2008. Accordingly, this patent expired at midnight on May 9, 2008, for failure to timely remit the maintenance fee.

On May 20, 2011, an unsigned paper styled as a petition under 37 CFR 1.377 was filed. On June 23, 2011, a letter dismissing the petition was mailed. On July 15, 2011, a petition under 37 CFR 1.377 was filed. On August 19, 2011, the petition was dismissed.

On October 3, 2011, the subject petition was filed, whereby petitioners assert unavoidable delay in that the second maintenance fee was timely submitted to the USPTO on October 10, 2007, but that the USPTO did not receive and apply the payment. Petitioners state that they did not receive any notification that the payment had not been received, and were unaware that the second maintenance fee had not been received and accepted by the USPTO until April 13, 2011, when petitioners attempted to pay the third maintenance fee.

A petition to accept the delayed maintenance fee under 35 U.S.C. § 41(c) and 37 CFR 1.378(b) must be accompanied by (1) an adequate, verified showing that the delay was unavoidable, since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent, (2) payment of the appropriate maintenance fee, unless previously submitted, and (3) payment of the surcharge set forth in 37 CFR 1.20(i)(1). This petition lacks requirement (1).

Unavoidable delay under 35 U.S.C. § 41(b) is measured by the same standard as that for reviving an abandoned application under 35 U.S.C. § 133.² Under 35 U.S.C. § 133, the Director may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Director to have been "unavoidable". Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable.³ However, a

² In re Patent No. 4,409,763, 7 USPQ2d 1798, 1800 (PTO Comm'r 1988).

³ Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term "unavoidable" "is applicable to ordinary human affairs, and requires no more

petition to revive an application as unavoidably abandoned cannot be granted where a petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay.⁴ In view of In re Patent No. 4,409,763,⁵ this same standard will be applied to determine whether "unavoidable" delay within the meaning of 37 CFR 1.378(b) occurred.

35 U.S.C. § 41(c)(1) does not require an affirmative finding that the delay was avoidable, but only an explanation as to why the petitioner has failed to carry his or her burden to establish that the delay was unavoidable.⁶ 35 U.S.C. § 133 does not require the Director to affirmatively find that the delay was avoidable, but only to explain why the applicant's petition was unavailing). Petitioner is reminded that it is the patentee's burden under the statutes and regulations to make a showing to the satisfaction of the Director that the delay in payment of a maintenance fee is unavoidable.⁷

As 35 USC § 41(b) requires the payment of fees at specified intervals to maintain a patent in force, rather than some response to a specific action by the Office under 35 USC § 133, a reasonably prudent person in the exercise of due care and diligence would have taken steps to ensure the timely payment of such maintenance fees.⁸ That is, an adequate showing that the delay in payment of the maintenance fee at issue was "unavoidable" within the meaning of 35 U.S.C. § 41(c) and 37 CFR 1.378(b)(3) requires a showing of the steps taken by the responsible party to ensure the timely payment of the second maintenance fee for this patent.⁹

At the outset, a review of Office financial records reveals that no payment of the second maintenance fee was timely received. In the absence of evidence in the Office that the payment has been

or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913).

⁴ Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

⁵ 7 USPQ2d 1798, 1800 (Comm'r Pat. 1988), aff'd sub nom. Rydeen v. Quigg, 748 937 F.2d 623 (Fed. Cir. 1991) (table), cert. denied, 502 U.S. 1075 (1992).

⁶ See Commissariat A. L'Energie Atomique v. Watson, 274 F.2d 594, 597, 124 USPQ 126, 128 (D.C. Cir. 1960).

⁷ See Rydeen v. Quigg, 748 F. Supp. 900, 16 USPQ2d 1876 (D.D.C. 1990), aff'd 937 F.2d 623 (Fed. Cir. 1991) (table), cert. denied, 502 U.S. 1075 (1992); Ray v. Lehman, 55 F.3d at 609, 34 USPQ2d at 1788.

⁸ Ray, 55 F.3d at 609, 34 USPQ2d at 1788.

⁹ Id.

received, the burden is on petitioners to show that the second maintenance fee payment was timely submitted to the USPTO or timely received in the USPTO. Simply put, an applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence. The fact that petitioners believe that the reply was (or should have been) timely received in the Office, is not more persuasive than the date the papers are shown to have been received in the official file.

In this regard, 37 CFR 1.8 states, in pertinent part, that:

(a) Except in the situations enumerated in paragraph (a)(2) of this section or as otherwise expressly excluded in this chapter, correspondence required to be filed in the U.S. Patent and Trademark Office within a set period of time will be considered as being timely filed if the procedure described in this section is followed. The actual date of receipt will be used for all other purposes.

(1) Correspondence will be considered as being timely filed if:

(i) The correspondence is mailed or transmitted prior to expiration of the set period of time by being:

(A) Addressed as set out in § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail;

(B) Transmitted by facsimile to the Patent and Trademark Office in accordance with § 1.6 (d); or

(C) Transmitted via the Office electronic filing system in accordance with § 1.6(a)(4); and

(ii) The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

...

(b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed or decided with prejudice, or the prosecution of a reexamination proceeding is terminated pursuant to § 1.550(d) or § 1.957(b) or limited pursuant to § 1.957(c), or a requester paper is refused consideration pursuant to § 1.957(a), the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement that attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing, transmission or submission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement. If the correspondence was transmitted via the Office electronic filing system, a copy of an acknowledgment receipt generated by the Office electronic filing system confirming submission may be used to support this statement.

37 CFR 1.10(d) states:

Any person mailing correspondence addressed as set out in § 1.1(a) to the Office with sufficient postage utilizing the "Express Mail Post Office to Addressee" service of the USPS but not received by the Office, may petition the Director to consider such correspondence filed in the Office on the USPS deposit date, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";

(3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and

(4) The petition includes a statement which establishes, to the satisfaction of the Director, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

MPEP 503 states, in pertinent part:

RETURN POSTCARD

If a receipt for any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. To ensure the receipt of return receipt postcards, users must either: (A) purchase already stamped postcards from the United States Postal Service (USPS) or affix postage stamps to their

postcards; or (B) if a postage meter is used, ensure that the meter postmark does not show the date. Any return receipt postcard containing a dated meter postmark may not be delivered by the USPS to the address provided on the postcard. Users are reminded that they are solely responsible for placing the proper postage on self-addressed postcards that are submitted to the USPTO for the purpose of obtaining a receipt for correspondence being filed in the USPTO. Users should check with the USPS regarding postage and what size cards are acceptable to the USPS. Any return receipt postcard that does not contain sufficient postage or is not acceptable may not be delivered by the USPS to the address provided on the postcard, and, if returned to the USPTO, may be discarded.

The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

The identifying data on the postcard should be so complete as to clearly identify the item for which a receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify the type of paper being filed, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., and the number of pages being submitted. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).

The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent

application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as *prima facie* evidence of receipt of those items.

The person receiving the item(s) in the USPTO will check the listing on the postcard against the item(s) being filed to be sure they are properly identified and that all the items listed on the postcard are presently being submitted to the USPTO. If any of the items listed on the postcard are not being submitted to the USPTO, those items will be crossed off and the postcard initialed by the person receiving the items.

Upon return of a postcard receipt from the USPTO, the postcard receipt should be promptly reviewed by the person who filed the items to ensure that every item specifically denoted on the postcard was received by the USPTO. If the postcard receipt has been annotated to indicate that a particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as *prima facie* evidence of receipt of that item in the USPTO.

A review of the documentation present by petitioner reveals that it includes copies of invoices showing a check was made out to the Office for payment of the second maintenance fee. Petitioner has **not** provided any evidence, however, showing that the maintenance fee payment was ever sent to the USPTO or received by the USPTO.

Such evidence would include a maintenance fee transmittal form or transmittal letter including a certificate of mailing in accordance with 37 CFR 1.8 or an Express Mail label number, if the maintenance fee payment was sent by the "Express Mail Post Office to Addressee" Service of the US Postal Service (USPS). Alternatively, petitioners may provide evidence that the payment

was received in the USPTO by providing an itemized stamped postcard in accordance with MPEP 503.

In the absence of evidence that the payment was either sent to, or received by, the USPTO, petitioners simply have no evidence that the payment was ever sent to or received in the USPTO.

Furthermore, turning to petitioners check, petitioners state that they were never informed by the USPTO that the check was not received. If the check was received at and deposited by the USPTO, petitioners should provide a copy of the bank statement or canceled check showing that the check made out to the USPTO was deposited and paid.

In this regard, did petitioners check their bank statement and realize that the maintenance fee check had not been paid? If the check was not deposited and paid after a reasonable period of time, why did petitioners not take further action to verify that the USPTO had in fact received the maintenance fee payment?

Lastly, petitioners' contention that they did not receive any timely notification from the USPTO that the second maintenance had not been received is not well taken. A patentee's lack of knowledge of the need to pay the maintenance fee and the failure to receive the Maintenance Fee Reminder do not constitute unavoidable delay.¹⁰ Under the statute and regulations, the Office has no duty to notify patentees of the requirement to pay maintenance fees or to notify patentees when the maintenance fees are due. The Office mailing of Maintenance Fee Reminders is carried out strictly as a courtesy. Accordingly, it is solely the responsibility of the patentee to assure that the maintenance fee is timely paid to prevent expiration of the patent. The lack of knowledge of the requirement to pay a maintenance fee and/or the failure to receive the Maintenance Fee Reminder will not shift the burden of monitoring the time for paying a maintenance fee from the patentee to the Office.¹¹

In summary, rather than unavoidable delay, the showing of record is that petitioners intended to timely pay the second maintenance fee, but made an avoidable mistake in not filing the maintenance fee payment in accordance with 37 CFR 1.8 or 1.10, or utilizing a postcard receipt in accordance with MPEP 503. Furthermore,

¹⁰ See Patent No. 4,409,763, *supra*; see also "Final Rules for Patent Maintenance Fees" 49 Fed. Reg. 34716, 34722-34723 (August 31, 1984), reprinted in 1046 Off. Gaz. Pat. Office 28, 34 (September 25, 1984).

¹¹ *Rydeen v. Quigg*, 748 F. supp. at 900.

petitioners failed to take action when, after a reasonable time, it was clear that the payment had not been received at the USPTO (i.e., the check for payment of the maintenance fee was never cashed by the USPTO).

A delay resulting from a lack of knowledge or improper application of the patent statute, rules of practice, or the MPEP does not constitute an "unavoidable" delay.¹² As such, the showing of record is that petitioners did not act with the level of care that would be expected of a reasonably prudent person taking care of his or her most important business.¹³ Therefore, the petition will be dismissed.

Petitioner should note that if this petition is not renewed, or if renewed and not granted, then the maintenance fee and post-expiration surcharge are refundable. The \$400.00 petition fee for expedited consideration is not refundable. The \$400.00 petition fee for seeking reconsideration is not refundable. Any request for refund should be in writing to the address noted below.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

By FAX: (571) 273-8300
 Attn: Office of Petitions

¹² See Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ 1130, 1132 (N.D. Ind. 1987), Vincent v. Mossinghoff, 230 USPQ 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

¹³ See note 3, supra.

Patent No. 6,059,140

11

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

A reply may also be filed via EFS-Web.

Telephone inquiries should be directed to the undersigned at 571-272-3231.



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

SUITER SWANTZ PC LLO
14301 FNB PARKWAY
SUITE 220
OMAHA NE 68154

MAILED

JAN 25 2012

OFFICE OF PETITIONS

In re Application of	:	
Iliff	:	
Application No. 09/265,226	:	
Patent No.: 6,748,353	:	DECISION ON PETITION
Filed: March 8, 1999	:	PURSUANT TO
Issued: June 8, 2004	:	37 C.F.R. § 1.28(c)
Attorney Docket No.	:	
ILIFF.002DV2	:	
Title: AUTHORIZING LANGUAGE	:	
TRANSLATOR OR MEDICAL BASED ON	:	
PARSING A PROGRAM COMPRISED OR	:	
NODES LISTS	:	

This is a notice regarding your request for acceptance of a fee deficiency submission pursuant to 37 C.F.R. § 1.28, received on December 8, 2011. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 C.F.R. § 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 C.F.R. § 1.56. 1098 *Off. Gaz. Pat. Office* 502 (January 3, 1989). Therefore, nothing in this notice is intended to imply that an investigation was done.

Petitioner has identified the particular type of fee that was erroneously paid as a small entity, when the small entity fee was actually paid, the small entity fee that was actually paid, the deficiency owed amount, and the total deficiency payment owed.

The deficiency payment in the amount of \$1425.00 has been received.

Your fee deficiency submission pursuant to 37 C.F.R. § 1.28(c) is hereby accepted. The petition is **GRANTED** accordingly.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.



Paul Shanowski
Senior Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6451041 :
Issue Date: September 17, 2002 :
Application No. 09265481 :DECISION GRANTING PETITION
Filed: March 9, 1999 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 1006-0509 :

This is a decision on the electronic petition, filed October 14, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 14, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6451041	2002-09-17	09265481	1999-03-09	IPT-05

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|---------------------------------|-----|--------|
| <input type="radio"/> 3 ½ year | | (1551) |
| <input type="radio"/> 7 ½ year | | (1552) |
| <input type="radio"/> 11 ½ year | | (1553) |

Small Entity

- | | Fee | Code |
|---|-----|--------|
| <input type="radio"/> 3 ½ year | | (2551) |
| <input checked="" type="radio"/> 7 ½ year | | (2552) |
| <input type="radio"/> 11 ½ year | | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Kevin G. Rooney/	Date (YYYY-MM-DD)	2010-10-14
Name	Kevin G. Rooney	Registration Number	36330
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6424687
Issue Date: July 23, 2002
Application No. 09268539
Filed: March 15, 1999
Attorney Docket No. TM98-011

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed December 7, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 7, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6424687	2002-07-23	09268539	1999-03-15	1187-TT

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input checked="" type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/STEVEN LIN/	Date (YYYY-MM-DD)	2010-12-07
Name	Steven Lin	Registration Number	35250
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/28/10

TO SPE OF : ART UNIT 2176

SUBJECT : Request for Certificate of Correction for Appl. No.: 09270107 Patent No.: 6477550

CofC mailroom date:

12/16/10

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)

Randolph Square – 9D10-A

Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

Comments: Based on the information supplied by Applicant in the
correspondence dated 12/16/2010, the corrections are approved.


DOUG HUTTON
SUPERVISORY PATENT EXAMINER



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6296707
Issue Date: October 2, 2001
Application No. 09271183
Filed: March 17, 1999
Attorney Docket No. N48-1220

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed December 21, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 21, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,296,707	2001-10-02	09/271,183	1999-03-17	105008.63041US

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input checked="" type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Michael H. Jacobs/	Date (YYYY-MM-DD)	2010-12-21
Name	Michael J. Jacobs	Registration Number	41870
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

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The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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HOWARD & HOWARD ATTORNEYS PLLC
450 West Fourth Street
Royal Oak MI 48067

MAILED
OCT 03 2011
OFFICE OF PETITIONS

In re Patent No. 6,298,745 :
Issue Date: October 9, 2001 :
Application No. 09/271,571 : **ON PETITION**
Filed: March 18, 1999 :
Attorney Docket No. **65,748-536** :

This is a decision on the petition under 37 CFR 1.378(c), filed September 21, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Thomas E. Anderson appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts.

If, Thomas E. Anderson desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to Thomas E. Anderson, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

This patent expired at midnight October 9, 2009, for failure to pay the 7½ year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The petition is hereby **GRANTED**.

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

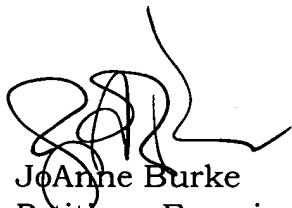
A petition to accept the unintentionally delayed payment of a maintenance fee under 37 CFR 1.378(c) must be accompanied by (1) a statement that the delay

was unintentional, (2) payment of the appropriate maintenance fee, unless previously submitted, and (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2).

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

Petitioner will not receive future correspondence related to maintenance fees for the patent unless a "Fee Address" Indication Form (see PTO/SB/47) and Request for Customer Number (see PTO/SB/125) are submitted.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.



JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Thomas E. Anderson
Gifford, Krass, Sprinkle, Anderson & Citkowski, P.C.
P.O. Box 7021
Troy, MI 48007-7021

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6374352	2002-04-16	09271803	1999-03-18	P8883

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input checked="" type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Kendal M. Sheets/	Date (YYYY-MM-DD)	2010-10-15
Name	Kendal M. Sheets	Registration Number	47077
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

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2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6374352
Issue Date: April 16, 2002
Application No. 09271803
Filed: March 18, 1999
Attorney Docket No. P8883

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed October 18, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 18, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6337832 :
Issue Date: January 8, 2002 :
Application No. 09272194 :DECISION GRANTING PETITION
Filed: March 18, 1999 :UNDER 37 CFR 1.378(c)
Attorney Docket No. :

This is a decision on the electronic petition, filed January 6, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 6, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6337832	2002-01-08	09272194	1999-03-18	ID 002611

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input checked="" type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/SMG/	Date (YYYY-MM-DD)	2011-01-06
Name	Steven M. Gruskin	Registration Number	36818
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 15

Ballard Spahr LLP
SUITE 1000
999 PEACHTREE STREET
ATLANTA GA 30309-3915

MAILED

SEP 10 2010

OFFICE OF PETITIONS

In re Patent No. 6,302,845
Issued: October 16, 2001
Application No.: 09/272,764
Filing Date: March 19, 1999
Attorney Docket No. **20208.0002U1**

:
: REQUEST FOR INFORMATION
:
:
:

This is a request for information in response to the petition under 37 CFR 1.378(b), filed March 9, 2010, to reinstate the above-cited patent.

Petitioner is allowed a non-extendable period for reply of **TWO (2) MONTHS** from the mailing date of this communication to provide a response. The response should be titled, "Response to Request for Information." If no response is provided within the period set forth, a decision will be made solely on the merits as set forth in the petition under 37 CFR 1.378(b) filed September 28, 2009. No additional fees are due.

The patent issued October 16, 2001. The 3.5 year maintenance fee could have been paid from October 16, 2004, through April 16, 2005, or with a surcharge, as authorized by 37 CFR 1.20(h), during the period from April 17, 2005, to October 16, 2005. Petitioner did not do so. Accordingly, the patent expired at midnight on October 16, 2005.

Petitioner is required to address the following points:

- A successful petition under 37 CFR 1.378(b) must affirmatively identify the cause of the delay in paying the maintenance fee and provide a statement from every person with first-hand knowledge of the circumstances surrounding the delay in paying the maintenance fee. Petitioner must provide statements from any person who may have been charged with paying the maintenance fee and statements from any person with first-hand knowledge of the circumstances surrounding the failure to pay the maintenance fees.
- 37 CFR 1.378(b)(3) sets forth that a petition submitted under this portion of the Code of Federal Regulations must include a showing which is described as follows:

A showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the

patent. The showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

Petitioner must, therefore, describe the steps that were in place to ensure that the maintenance fee was timely paid. This showing would include an explanation of who was responsible for paying tracking and paying the maintenance fee and the method this person, or entity, used for tracking the maintenance fee

- Petitioner must describe when petitioner became aware that the patent was expired and the steps petitioner took to reinstate the patent

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patent
Mail Stop Petitions
Box 1450
Alexandria, VA 22313-1460

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petition Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Ballard Spahr LLP
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ATLANTA GA 30309-3915

MAILED
JUN 21 2011
OFFICE OF PETITIONS

In re Patent No. 6,302,845 :
Issued: October 16, 2001 : ON PETITION
Application No.: 09/272,764 :
Filing Date: March 19, 1999 :
Attorney Docket No. 20208.0002U1 :

This is responsive to the Response to Request for Information filed November 10, 2010, and a decision on the petition under 37 CFR 1.378(b), filed March 9, 2010, to reinstate the above-cited patent.

The petition is **dismissed**.

The patent issued October 16, 2001. The 3.5 year maintenance fee could have been paid from October 16, 2004, through April 16, 2005, or with a surcharge, as authorized by 37 CFR 1.20(h), during the period from April 17, 2005, to October 16, 2005. Petitioner did not do so. Accordingly, the patent expired at midnight on October 16, 2005.

A grantable petition under 37 CFR 1.378(b) must be accompanied by a showing to the satisfaction of the Commissioner that the entire delay in paying the required maintenance fee from the due date for the fee until the filing of a grantable petition pursuant to this paragraph was unavoidable. The showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable within the meaning of 37 CFR 1.378(b).

Opinion

Petitioner must establish that petitioner treated the patent the same as a reasonable and prudent person would treat his or her most important business.

The general standard applied by the Office requires petitioner to establish that petitioner treated the patent the same as a reasonable and prudent person would treat his or her most important business.¹

¹The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard. 35 U.S.C. 41(c)(1) states, "The Commissioner may accept the payment of any maintenance fee . . . at any time . . . if the delay is shown to the satisfaction of the Commissioner to have been unavoidable." (emphasis added).

"In the specialized field of patent law, . . . the Commissioner of Patent and Trademarks is primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. His interpretation of those provisions is entitled to considerable deference." Rydeen v. Quigg, 748 F. Supp. 900, 904, 16 U.S.P.Q2d (BNA) 1876 (D.D.C. 1990), aff'd without opinion Rule 36), 937 F.2d 623 (Fed Cir. 1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q2d agencies' interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) ("if the statute is silent or

However, "[t]he question of whether an applicant's delay in prosecuting an application was unavoidable [will] be decided on a case-by-case basis, taking all of the facts and circumstances into account."² Nonawareness of the content of, or misunderstanding of PTO statutes, PTO rules, the MPEP, or the Official Gazette notices does not constitute unavoidable delay.³ The statute requires a "showing" by petitioner, therefore; petitioner has the burden of proof. The decision will be based solely on the written, administrative record in existence. It is not enough that the delay was unavoidable; petitioner must prove that the delay was unavoidable. A petition will not be granted if petitioner provides insufficient evidence to "show" that the delay was unavoidable.

Petitioner is responsible for possessing knowledge of the need to pay maintenance fees and the due dates for such fees, Petitioner is responsible for instituting a reliable docketing system to remind him or her when maintenance fees become due.

Petitioner is responsible for having knowledge of the need to pay maintenance fees and knowing when the fees are due.⁴ The Office has no duty to notify a patentee of the requirement to pay maintenance fees or to notify patentee when a maintenance fee is due.⁵ Even if the Office were required to provide notice to

ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.")

"The critical phrase 'unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable' has remained unchanged since first enacted in 1861." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982). The standard for "unavoidable" delay for reinstating a patent is the same as the unavoidable standard for reviving an application. See Ray v. Lehman, 55 F. 3d 606, 608-609, 34 U.S.P.Q.2d (BNA) 1786, 1781 (Fed Cir. 1995) (Citing In re patent No. 4,409,763, 7 U.S.P.Q.2d BNA) 1798, 1800 (Comm'r Pat. 1990; Smith v. Mossinghoff, 671 F. 2d 533, 538, 213 U.S.P. Q. (BNA) 977 (D.C. Cir. 1982). The court in In re Mattullath, accepted the standard which had been proposed by Commissioner Hall which "requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business." In re Mattullath, 38 App. D.C. 497, 514-515 (1912) (quoting Ex parte Pratt, 1887 Dec. Comm'r Pat 31, 32-33 (1887)).

²Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (1982).

³See Smith v. Mossinghoff, 671 F. 2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel's nonawareness of PTO rules does not constitute "unavoidable" delay); Vincent v. Mossinghoff, 1985 U.S. Dist. LEXIS 23119, 13, 230 U.S.P.Q. (BNA) 621 (D.D.C. 1985) (plaintiffs, through their counsel's action, or their own, must be held responsible for having noted the MPEP section and Official Gazette notices expressly stating that the certified mailing procedures outlined in 37 CFR 1.8(a) do not apply to continuation applications.) (Emphasis added).

⁴Nonawareness of PTO statutes, PTO rules, the MPEP, or Official Gazette notices, which state maintenance fee amounts and dates they are due does not constitute unavoidable delay. See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel's nonawareness of PTO rules does not constitute "unavoidable" delay); Vincent v. Mossinghoff, 1985 U.S. Dist. LEXIS 23119, 13, 230 U.S.P.Q. (BNA) 621 (D.D.C. 1985) (Plaintiffs, through their counsel's actions, or their own must be held responsible for having noted the MPEP section and Official Gazette notices expressly stating that the certified mailing procedures outlined in 37 CFR 1.8(a) do not apply to continuation applications.) (Emphasis added).

Petitioner must act as a reasonable and prudent person in relation to his most important business. Upon obtaining the patent, a reasonable and prudent person, in relation to his most important business, would become familiar with the legal requirements of that business, in this case, the requirement to pay maintenance fees. In addition, a reasonable and prudent individual would read the patent itself and thereby become aware of the need to pay maintenance fees and the fact that such fee amounts are sometimes changed by law or regulation.

⁵Congress expressly conditioned §§ 133 and 151 [of the United States Code] on a specific type of notice, while no such notice requirements are written into § 41(c) . . . [T]he Commissioner's no timely-notice interpretation." Ray v. Comer, 1994 U.S. Dist. LEXIS 21478, 8-9 (1994), *aff'd on other grounds* Ray v. Lehman, 55 F.3d 606, 34 USPQ2d 1786 (Fed. Cir. 1995) (Citing

applicant of the existence of maintenance fee requirements, such notice is provided by the patent itself.⁶

A reasonable and prudent person, aware of the existence of maintenance fees, would not rely on maintenance fee reminders or on memory to remind him or her when payments would fall due several years in the future. Instead, such an individual would implement a reliable and trustworthy tracking system to keep track of the relevant dates.⁷ The individual would also take steps to ensure that the patent information was correctly entered into the tracking system.

Application of the unavoidable standard to the present facts

In the instant petition, petitioner argues that the above-cited patent should be reinstated because the delay in paying the 3.5-year maintenance fee was unavoidable and resulted from several apparent failures in the Thomas Jefferson University, Office of Technology Transfer & Business Development, hereinafter referred to as "OTT". Thomas Jefferson University is noted in USPTO records as the assignee for the subject patent.

The argument has been considered, but is not persuasive as the showing made in the petition is incomplete. Further to this point, Section 711.03(c)(2) provides, in pertinent part that:

In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." *Smith v. Mossinghoff*, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." *Haines v. Quigg*, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

Rydeen v. Quigg, 748 F. Supp. 900, 905 (1990), *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837, 81 L. ed. 2d 694, 104 S. Ct. 2778 (1984)). "The Court concludes as it did in *Rydeen*, that as a constitutional matter, 'plaintiff was not entitled to any notice beyond publication of the statute.'" *Id.* at 3 (citing *Rydeen v. Quigg*, 748 F. Supp. at 906, *Texaco v. Short*, 454 U.S. 516, 536, 70 L. Ed. 2d 738, 102 S. Ct. 781 (1982)).

The Patent Office, as a courtesy tries to send maintenance fee reminders and notices of patent expiration to the address of record. However, the failure to receive the reminder notice, and the lack of knowledge of the requirement to pay the maintenance fee, will not shift the burden of monitoring the time for paying a maintenance fee from the patentee to the Office. See MPEP 2575, 2540, 2590. Petitioner does not have a right to a personalized notice that this patent will expire if a certain maintenance fee is not paid, as the publication of the statute was sufficient notice. See *Rydeen v. Quigg*, 748 F. Supp. 900, 907 (1990). the ultimate responsibility for keeping track of maintenance fee states lies with the patentee, not the USPTO. Since the mailing of Notices by the Office is completely discretionary and not a requirement imposed by Congress, accepting an argument that failure to receive a Notice is unavoidable delay would result in all delays being unavoidable should the Office discontinue the policy. All petitions could allege non-receipt of the reminder, and therefore all petitions could be granted. This was clearly not the intent of Congress in the creation of the unavoidable standard.

⁶See *Ray v. Lehman*, 55 F.3d 606, 610; 34 USPQ2d 1786, 1789 (Fed. Cir. 1995). The Letters of Patent contain a Maintenance Fee Notice that warns that the patent may be subject to maintenance fees if the application was filed on or after December 12, 1980. While it is unclear as to who was and is in actual possession of the patent, petitioner's failure to read the Notice does not vitiate the Notice, nor does the delay resulting from such failure to read the Notice establish unavoidable delay.

⁷ 37 CFR 1.378(b)(3) precludes acceptance of a late maintenance fee for a patent unless a petitioner can demonstrate that steps were in place to monitor the maintenance fee. The federal Circuit has specifically upheld the validity of this regulation. *Ray v. Lehman*, 55 F.3d 606, 609; 34 USPQ2d (BNA) 1786 (Fed.Cir. 1995). In *Ray v. Lehman*, petitioner claimed that he had not known of the existence of the maintenance fees and therefore had no steps in place to pay such fees. The petitioner therefore argues that the PTO's regulation, 37 CFR 1.37(b)(3), supra, arguing that it 'creates a burden that goes well beyond what is reasonably prudent.' We disagree, The PTO's regulation merely sets forth how one is to prove that he was reasonably prudent, i.e., by showing what steps he took to ensure that the maintenance fee would be timely paid, and the steps taken in seeking to reinstate the patent. We do not see these requirements additional to proving unavoidable delay, but as the very elements of unavoidable delay." *Id.*

Petitioner has not established that the entire delay in paying the maintenance fee was unavoidable. Petitioner recounts that the attorney who prosecuted the application, Clifford Weber was responsible for tracking and paying the maintenance fees for the subject patent; however, Mr. Weber's employment was terminated in July 1, 2003. Thereafter, petitioner states that the assignee's IP Counsel Group dissolved and, further the assignee's lead attorney's employment was terminated in May of 2004. By the instant "Response to Request for Information", petitioner offers the statement of Steven E. McKenzie, Vice President for Research who oversees the OTT. In summary, Mr. McKenzie states the following:

- the OTT has retained outside counsel to track and pay maintenance fees since July 1, 2003.
- OTT transferred all patent files to the outside counsel; the OTT retained one full-time employee as a liaison to outside firms.
- for issued patents and patent applications initiated and filed before July 1, 2003, once the OTT received a communication from the USPTO, the communication was entered to a database maintained by OTT. Once entered into the OTT database, the OTT sent the communication to outside counsel who then docketed the communication and tracked any due dates.
- the case of the subject patent, the Notice of Patent Expiration was received by the OTT on December 22, 2005, and entered into OTT's database by the receptionist. The receptionist resigned her position shortly thereafter and never forwarded the Notice of Patent Expiration to outside counsel.

Petitioner has not demonstrated that a reliable business routine was in place to track and pay the maintenance fee for the subject patent. Neither has petitioner demonstrated that petitioner relied on an otherwise knowledgeable and skilled employee in managing the OTT database and transferring the communications to outside counsel. It is noted that petitioner only addresses the issue of Notice of Patent Expiration not being forwarded to the outside counsel. This issue, alone, is not dispositive of whether the entire delay was unavoidable. It is noted that when a Letters of Patent is issued, it is accompanied by a maintenance fee schedule setting for the due dates for the payment of maintenance fees. The subject patent issued October 16, 2001; therefore, in accordance, with the assignee's system, once the Letters of Patent was received it should have been entered in the OTT database and maintenance fee schedule forwarded to outside counsel for docketing of the maintenance fee due dates. This did not occur and petitioner offers no explanation for why it did not. Further to this point, Section 711.03(c)(2) provides, in pertinent part that:

In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." *Smith v. Mossinghoff*, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." *Haines v. Quigg*, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

Petitioner has not established that the entire delay in paying the maintenance fee was unavoidable. Petitioner recounts that the attorney who prosecuted the application, Clifford Weber was responsible for tracking and paying the maintenance fees for the subject patent; however, Mr. Weber's employment was terminated in July 1, 2003. Thereafter, petitioner states that the assignee's IP Counsel Group dissolved and, further the assignee's lead attorney's employment was terminated in May of 2004. Petitioner states that there does not appear to have been any provisions made by Mr. Weber, anyone in the IP Counsel Group, or the Office of Technology Transfer and Business Development for the tracking of the maintenance fees or the payment of the maintenance fees. These facts do not demonstrate that there was

a place business routine in place around the time the patent issued, i.e., October 2001, to ensure timely payment of the maintenance fee. Without any business routine in place to track and pay the maintenance fee during the entire relevant period, it is not possible to establish that the entire delay in paying the maintenance fee was unavoidable. The failure to establish a business routine for tracking and paying the maintenance fee during the entire relevant period is arguably imprudent and belies the assertion that the delay was unavoidable.

In trying to establish that the entire delay was unavoidable, petitioner asserts that the Notice of Patent Expiration was received on December 22, 2005, and entered into the OTT database, but that the receptionist never sent the notice to outside counsel. Section 2590 of the MPEP indicates that:

... an error in a docketing system could possibly result in a finding that a delay in payment was unavoidable if it were shown that reasonable care was exercised in designing and operating the system and that the patentee took reasonable steps to ensure that the patent was entered into the system to ensure timely payment of the maintenance fee.

Further, Section 711.03(c)(2) provides, in pertinent part that:

In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." *Smith v. Mossinghoff*, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." *Haines v. Quigg*, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

A delay resulting from an error (e.g., a docketing error) on the part of an employee in the performance of a clerical function may provide the basis for a showing of "unavoidable" delay, provided it is shown that:

- (A) the error was the cause of the delay at issue;
- (B) there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance; and
- (C) the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care.

Petitioner has not made a showing that the delay resulting from the inaction of the unnamed receptionist was unavoidable as petitioner is not shown that: 1) the error was the cause of the delay at issue; 2) there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid error, and 3) the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care.

Further, a statement is required from all persons with direct knowledge of the cause of unavoidable delay. Section 2590 of the *Manual of Patent Examining Procedure* (MPEP) provides that, among other requirements, a petition to accept late payment of a maintenance fee, where the delay was unavoidable, must include:

- (C) a showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent.

The required showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly. Furthermore, an adequate showing requires a statement by all persons with direct knowledge of the cause of delay, setting forth the facts as they know them. Copies of all documentary evidence referred to in a statement should be furnished as exhibits to the statement.

A statement from the employee charged with handling records and notices relative to the subject patent is, therefore, required. Petitioner is cautioned that it will be difficult to grant a petition for unavoidable delay without a statement from the employee that would have first-hand knowledge the circumstances that resulted in the delay.

Further, statement is required from all persons with direct knowledge of the cause of unavoidable delay. Section 2590 of the *Manual of Patent Examining Procedure* (MPEP) provides that, among other requirements, a petition to accept late payment of a maintenance fee, where the delay was unavoidable, must include:

(C) a showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent.

The required showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly. Furthermore, an adequate showing requires a statement by all persons with direct knowledge of the cause of delay, setting forth the facts as they know them. Copies of all documentary evidence referred to in a statement should be furnished as exhibits to the statement.

A statement from the employee charged with handling the payment of the maintenance fee is, therefore, required. Petitioner is cautioned that it will be difficult to grant a petition for unavoidable delay without a statement from the employee that would have first-hand knowledge the circumstances that resulted in the delay.

As was indicated in the Request for Information mailed September 10, 2010, petitioner is required to affirmatively identify the cause of the delay in paying the maintenance fee and provide a statement from every person with first-hand knowledge of the circumstances surrounding the delay in paying the maintenance fee. Petitioner must provide statements from any person who may have been charged with paying the maintenance fee and statements from any person with first-hand knowledge of the circumstances surrounding the failure to pay the maintenance fees. At present, petitioner has only surmised that the records for the subject patent were lost and forgotten about after the termination of the employment of Mr. Weber and that of the assignee's lead counsel and concludes that the resulting delay in paying the maintenance fee was unavoidable. Petitioner has not affirmatively identified the cause of the delay in paying the maintenance fee, or the circumstances that contributed to the delay, and has not provided a statement from any person with first-hand knowledge of the circumstances surrounding the delay in paying the maintenance fee.

Lastly, a successful petition under 37 CFR 1.378(b) requires that petitioner demonstrate that the entire delay in paying the maintenance fee—from the due date for the maintenance fee until the filing of a grantable petition—was unavoidable. Petitioner states that the Office of Technology Transfer and Business Development was made aware of the expiration of the patent when the Notice of Patent Expiration was sent to the Office of Technology Transfer and Business Development by the University Counsel. Petitioner states that because no case file existed for the patent, the receipt of the notice was docketed in Office of Technology Transfer and Business Development database but no further action was taken until 2009. Arguably, this inaction after the assignee's staff was made aware that the patent was expired further undermines petitioner's claim that the entire delay was unavoidable. This delay further undermines petitioner's claim that the entire delay was unavoidable as petitioner had actual knowledge that the patent was expired, yet took no immediate action to address the matter.

Petitioner's Current Options

I. Petitioner may file a request for reconsideration.

If reconsideration of this decision is desired, a petition for reconsideration must be filed within TWO (2) MONTHS from the mail date of this decision.⁸ The petition for reconsideration should be titled "Petition for Reconsideration under 37 CFR 1.378(b)." Any petition for reconsideration for this decision must be accompanied by a non-refundable petition fee of \$400.00 as set forth in 37 CFR 1.17(h).

After a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner. It is, therefore, extremely important that petitioner supply any and all relevant information and documentation with the request for reconsideration. The Commissioner's decision will be based solely on the administrative record in existence. Petitioner should remember that is not enough that the delay was unavoidable; petitioner must prove that the delay was unavoidable. A petition will not be granted if petitioner provides insufficient evidence "to show" that the delay was unavoidable. If a request for reconsideration is filed, it must establish that the entire delay in the submission of the maintenance fee was unavoidable.

II. Petitioner may request a refund of the maintenance fee and surcharge which accompanied the petition.

Petitioner may request a refund of the maintenance fee and surcharge by writing to the Office of Finance, Refund Section. A copy of this decision should accompany petitioner's request.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patent
Mail Stop Petitions
Box 1450
Alexandria, VA 22313-1460

By facsimile: (571) 273-8300
Attn: Office of Petitions

A reasonable and prudent person would not rely on maintenance fee reminders from the Office for two reasons. First, the Office has indicated that such reminders are a mere courtesy and has reserved the right to discontinue such reminders at any time. second, such reminders may be lost in the mail. A reasonable and prudent person, in regard to his most important business would not rely solely on reminders that the Office may or may not send which may or may not be lost in the mail.

⁸No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). This is not a final agency action within the meaning of 5 U.S.C. § 704.



UNITED STATES PATENT AND TRADEMARK OFFICE

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Ballard Spahr LLP
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999 PEACHTREE STREET
ATLANTA GA 30309-3915

MAILED
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OFFICE OF PETITIONS

In re Patent No. 6,302,845 :
Issued: October 16, 2001 : REQUEST FOR INFORMATION
Application No.: 09/272,764 :
Filing Date: March 19, 1999 :
Attorney Docket No. **20208.0002U1** :

This is a request for information in response to the petition under 37 CFR 1.378(e), filed August 22, 2011, to reinstate the above-cited patent.

Petitioner is allowed a non-extendable period for reply of **TWO (2) MONTHS** from the mailing date of this communication to provide a response. The response should be titled, "Response to Request for Information." If no response is provided within the period set forth, a decision will be made solely on the merits as set forth in the petition under 37 CFR 1.378(b) filed September 28, 2009. No additional fees are due.

The patent issued October 16, 2001. The 3.5 year maintenance fee could have been paid from October 16, 2004, through April 16, 2005, or with a surcharge, as authorized by 37 CFR 1.20(h), during the period from April 17, 2005, to October 16, 2005. Petitioner did not do so. Accordingly, the patent expired at midnight on October 16, 2005.

Petitioner recounts that the attorney who prosecuted the application, Clifford Weber was responsible for tracking and paying the maintenance fees for the subject patent; however, Mr. Weber's employment was terminated in July 1, 2003. Thereafter, petitioner states that the assignee's IP Counsel Group dissolved and, further the assignee's lead attorney's employment was terminated in May of 2004. Petitioner states that there does not appear to have been any provisions made by Mr. Weber, anyone in the IP Counsel Group, or the Office of Technology Transfer and Business Development (OTT) for the tracking of the maintenance fees or the payment of the maintenance fees. The "Affidavit of Lisa Lau" filed August 22, 2011, indicates that she has been an employee of the OTT since October 1, 2001, and that she "was provided with extensive training on both the management of patent due dates and the importance of directing the timely payment of maintenance fees by Executive Director of OTT." Further, Ms. Lau indicates that, "the first maintenance fee for the '845 Patent came due on April 16, 2005; however, OTT was not aware of this due date because of Mr. Weber's failure to notify OTT or outside counsel."

Petitioner is required to address the following points:

- Petitioner has indicated that petitioner is unable to locate Mr. Weber to garner a statement from him relative to his understanding of how the 3.5-year maintenance fee payment was missed. During the period from July 1, 2003 when Mr. Weber was terminated, the IP Counsel Group dissolved, and the assignee's lead attorney resigned in 2004, forward, petitioner is required to explain how any remaining patent matters were transferred to the OTT, if at all. Petitioner should provide this recollection from Ms. Lau's point of view, if she has any knowledge of this at all.
- From petitioner's statements, it appears that the subject patent was the only patent the was allowed to expire notwithstanding the apparent confusion that resulted from Mr. Weber's termination and dissolution of the IP Counsel Group. Petitioner is required to verify this observation.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patent
Mail Stop Petitions
Box 1450
Alexandria, VA 22313-1460

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petition Attorney
Office of Petitions



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**DAVID NEWMAN CHARTERED
CENTENNIAL SQUARE
P O BOX 2728
LA PLATA MD 20646-2728**

MAILED

SEP 02 2011

OFFICE OF PETITIONS

In re Patent No. 6,324,207
Issue Date: November 27, 2001
Application No. 09/273,507
Filed: March 22, 1999
Attorney Docket No. GBTI55US

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ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed August 1, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on November 28, 2009 for failure to pay the seven and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

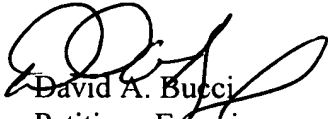
The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Patent No. 6,324,207

Telephone inquiries concerning this decision should be directed to Andre Boyce at (571) 272-6726, or in his absence, the undersigned at (571) 272-7099.

A handwritten signature in black ink, appearing to read 'David A. Buccj', written over the printed name.

David A. Buccj
Petitions Examiner
Office of Petitions

Cc: Mimi Hsu
198 Brighton Ave.
Long Branch, NJ 07740



UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 8

Blank Rome LLP
600 New Hampshire Avenue, N.W.
Washington, DC 20037

In re Patent No. RE36770
Issued: July 11, 2000
Application No. 09/273,567
Filed: March 22, 1999
Reissue of Patent No. 5,614,737
Originally Issued: March 25, 1997
Attorney Docket No. 105773.00110

ON RENEWED PETITION

This is responsive to the "Response to Request for Information" filed November 30, 2009, and a decision on the petition under 37 CFR 1.378(e), filed February 9, 2009, to reinstate the above-identified patent¹.

The renewed petition is DENIED².

BACKGROUND

The record reflects that:

- on March 25, 1997, United States non-provisional patent application 09/273,567 matured into U.S. Patent No. 5,614,737. Reissue Patent No. RE36770 was issued therefrom on July 11, 2000.
- the 3.5 year maintenance fee could have been paid from March 25, 2000, through September 25, 2000, and with a surcharge, as authorized by 37 CFR 1.20(h), from September 26, 2000, through March 25, 2001.

¹ The "Notice of Intent to Supplement Response to Request for Information" filed February 19, 2010, and "Supplemental Response to Request for Information" filed June 8, 2010, were not considered because the papers were filed outside the two-month non-extendable period for reply set by the "Request for Information" mailed September 30, 2009.

² This decision may be viewed as a final agency action within the meaning of 5 U.S.C. § 704 for the purpose of seeking judicial review. See MPEP 1002.02.

- the 3.5-year maintenance fee was not timely paid and the subject patent expired at midnight on March 25, 2001.
- the 7.5-year maintenance fee was due by March 25, 2005.
- on September 25, 2008, a petition under 37 CFR 1.378(b) was filed. The petition was dismissed by a decision mailed December 8, 2008.
- on February 9, 2009, a petition under 37 CFR 1.378(e) was filed.
- on September 30, 2009, a "Request for Information" was mailed
- a "Response to Request for Information" was filed on November 30, 2009.

STATUTES AND REGULATIONS

35 U.S.C. § 41(b) states, in pertinent part, that:

MAINTENANCE FEES.-- The Director shall charge the following fees for maintaining all patent based on applications filed on or after December 12, 1980:

- (1) 3 years and 6 months after grant, \$900.
- (2) 7 years and 6 months after grant, \$2,300.
- (3) 11 years and 6 months after grant, \$3,800.

Unless payment of the applicable maintenance fee is received in the United States Patent and Trademark Office in or before the date the fee is due or within a grace period of six months thereafter, the patent will expire as of the end of such grace period.

35 U.S. C. § 41(c)(1)

The Director may accept the payment of any maintenance fee required by subsection (b) of this section which is made within twenty-four months after the six month grace period if the delay is shown to the satisfaction of the Director to have been unintentional, or at any time after the six month grace period if the delay is shown to the satisfaction of the Director to have been unavoidable. The Director may require payment of a surcharge as a condition of accepting payment of any maintenance fee after the six-month grace period. If the Director accepts payment of a maintenance fee after the six month grace period, the patent shall be considered as not having expired at the end of the grace period.

35 U.S.C. § 41(h)(1)

Fees charged under subsection (a) or (b) shall be reduced by 50 percent with respect to their application to any small business concern as defined under section 3 of the Small Business Act, and to any independent inventor or non-profit organization as defined in regulations issued by the Director.

37 CFR 1.378(b)

Any petition to accept an unavoidably delayed payment of a maintenance fee filed under paragraph (a) of this section must include:

- (1) The required maintenance fee set forth in § 1.20(e) through (g);
- (2) The surcharge set forth in § 1.20(i)(1), and
- (3) A showing that delay was unavoidable since reasonable care was taken to ensure that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which patentee became aware of the expiration of the patent and the steps taken to file the petition promptly.

37 CFR 1.378(e)

Reconsideration of a decision refusing to accept a maintenance fee upon petition filed pursuant to paragraph (a) of this section may be obtained by filing a petition for reconsideration within two months of, or such other time as set the decision refusing to accept the delayed payment of the maintenance fee. Any such petition for reconsideration must be accompanied by the petition fee set forth in § 1.17(f). After the decision on the petition for reconsideration, no further review of the matter will be undertaken by the Director. If delayed payment of the maintenance fee is not accepted, the maintenance fee and the surcharge set forth in § 1.20(i) will be refunded following the decision on the petition for reconsideration, if none is filed. Any petition fee under this section will not be refunded unless the refusal to accept and record the maintenance fee is determined to result from error by the Patent and Trademark Office.

STANDARD

37 CFR 1.378(b)(3) is at issue in this case. Acceptance of a late maintenance fee under the unavoidable delay standard is considered under the same standard for reviving an abandoned application under 37 CFR 1.137(a). This is a very stringent standard. Decisions on reviving abandoned applications on the basis of “unavoidable delay have adopted the reasonably prudent

person standard in determining if the delay was unavoidable: The word ‘unavoidable’...is applicable to ordinary human affairs, and requires no more or no greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business³.

In addition decisions are made on a “case-by-case basis, taking all facts and circumstances into account.” Nonetheless, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was “unavoidable⁴.”

An adequate showing that the delay in payment of the maintenance fee was unavoidable within the meaning of 35 U.S.C. 41(c) and 37 CFR 1.378(b)(3) requires a showing of the steps taken to ensure the timely payment of the maintenance fees for this patent. Where the record fails to disclose that the patentee took reasonable steps, or discloses that the patentee took no steps, to ensure timely payment of the maintenance fee, 35 U.S.C. 41(c) and 37 CFR 1.378(b)(3) precludes acceptance of the delayed payment of the maintenance fee under 37 CFR 1.378(b).

The burden of showing the cause of the delay is in on the person seeking to reinstate the patent⁵.

The Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and the applicant is bound by the consequences of those actions or inactions⁶. Specifically, petitioner’s delay caused by the mistakes or negligence of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 USC 133⁷.

The actions of the attorney are imputed to the client, for when a petitioner voluntarily chooses an attorney to represent him, the petitioner cannot later avoid the repercussions of the actions or inaction of this selected representative, for clients are bound by acts of their lawyers/agents, and constructively possess “notice of all facts, notice of which can be charged upon the attorney⁸.”

Presuming for the purpose of discussion that it was an act/omission of Counsel that contributed to any of the delay herein, the act(s) omissions of the attorney/agent are imputed wholly to the applicant/client in the absence of evidence that the attorney/agent has acted to deceive the client. The actions or inactions of the attorney/agent must be imputed to the petitioners, who hired the attorney/agent to represent them. Link v. Wabash Railroad Co., 370 U.S. 626, 6330634, 82 S.

³ In re Mattullath, 38 App. D.C. 497, 514-515 (1912) (quoting Ex parte Pratt, 1887, Dec. Comm’r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 138 U.S.P.Q. 666, 167-168 (D.D.C. 1963), *aff’d*, 143 U.S.P.Q. 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm’r Pat. 139, 141 (1913).

⁴ Haines, 673 F. Supp. at 316-317, 5 U.S.P.Q.2d at 1121-32.

⁵ Id.

⁶ Link v. Wabash, 370 U.S. 626, 633-634 (1962).

⁷ Haines, 673 F. Supp. at 316-17, 5 U.S.P.Q.2d at 1131-32; Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1982); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm’r Pat. 103, 131 (Comm’r Pat. 1891).

⁸ Link at 633-634.

Ct. 1386, 1390-91 (1962). The failure of a party's attorney to take a required action or to notify the party of its rights does not create an extraordinary situation. Moreover, the neglect of a party's attorney is

imputed to that party and the party is bound by the consequences. See Huston v. Ladner, 973 F.2d 1564, 23 USPQ2d 1910 (Fed Cir. 1992); Herman Rosenberg and Parker Kalon Corp. v. Carr Fastener Co., 10 USPQ 106 (2d Cir. 1931).

PETITIONER'S ARGUMENT

✓ Petitioner argues that the above-cited patent should be reinstated because the delay in paying the 3.5-year and 7.5-year maintenance fees was unavoidable due to a docketing error that occurred in the offices of Blank and Rome LLP, the registered agents charged with the responsibility of tracking and paying the 3.5-year and 7.5-year maintenance fee for the subject patent. Petitioner states that the due dates for the maintenance fees were incorrectly docketed as September 25, 2004, September 25, 2008, and September 25, 2010, when, in fact, the 3.5 maintenance fee was due by September 25, 2000, the 7.5-year maintenance fee was due by March 25, 2005, and the 11.5-year maintenance fee due by March 25, 2009. Further, petitioner maintains that, once the error in docketing the maintenance fee due dates was realized and corrected, petitioner did not realize that the 3.5 year maintenance fee had not been paid and petitioner authorized payment of the 7.5-year maintenance in August 2004. Petitioner indicates that petitioner did not become aware of the expiration of the patent until 2008, when petitioner reviewed the maintenance fee history in advance of payment of the 11.5-year maintenance fee for the subject patent. Petitioner surmises that the docketing and clerical errors that were the cause of the delay in paying the 3.5-year and 7.5-year maintenance fees were the result of a data entry error committed by a docketing or maintenance fee clerk under the supervision of Supervisory Docketing Manager, Linda Bynum-Cosby. Petitioner further concludes that the delay in paying the maintenance fees also resulted from the failure of the maintenance fee clerks to notice that the 3.5-year maintenance fee had never been paid, once realizing that the due dates for the maintenance fee had been entered incorrectly. *supported*

OPINION

The Director may reinstate a patent if the delay in paying the maintenance fee is shown to the satisfaction of the Director to be have been "unavoidable". In this case, the unavoidable delay in paying the maintenance fees is alleged to be the result of a clerical error that occurred in the entry of the due dates for the maintenance fees for the subject patent. In support, petitioner has offered the statement of Andrew Yost, IP Administrator for Blank and Rome LLP. Mr. Yost, whose tenure with Blank Rome LLP did not begin until 2008, surmises that the error in the data entry was committed by a docketing clerk

supervised by Ms. Linda Bynum-Cosby, Supervisory Docketing Manager for Blank Rome LLP. Mr. Yost states that Ms. Bynum-Cosby had been with the firm for one year, having five years previous docketing and supervisory experience and an additional three years of experience as an IP specialist. Further, Mr. Yost states that Ms. Bynum-Cosby supervised and trained the maintenance fee clerks who would have been responsible for entry of the data relative to the maintenance fee due dates. Mr. Yost concludes:

[i]n the present case, failure to pay the maintenance fee was the result of a clerical error which resulted from a human error. Maintenance fee due date were incorrectly docketed upon issuance of the subject patent. The grant year of the Reissue patent was entered into the docketing software as the basis for maintenance fee due dates rather than the grant date of the original patent, U.S. Patent No. 5,614,737 issued March 25, 1997. Maintenance fees were docketed for September 25, 2004, September 25, 2008, and September 25, 2010, and were reported as such to the client...Due to the limitations of the docketing and maintenance fee software, it is not presently possible to identify the specific docketing clerk who entered incorrect base date for maintenance fee due date calculation. The prosecution of the parent patent was not handled by Blank Rome and the docketing system did not include a record for the parent patent.

At the time when the error occurred, the work associated with payment of the maintenance fees was performed under the direct control and close supervision of Linda Bynum-Cosby, the firm's Docketing Manager. At the time of the initial error in 2000, Linda Bynum-Cosby was employed at Blank Rome LLP from February 24, 1999, to August 10, 2006.

Excerpt taken from "Statement in Support of Petition for Reconsideration under 37 CFR 1.378(b), filed February 9, 2009, p. 4.

Petitioner also offers a statement from Rebecca F. South, Office Manager for the Washington, DC office of Blank Rome, LLP. Ms. South states that she oversaw the operations of the patent group of Blank Rome LLP and was the direct supervisor for Ms. Bynum-Cosby. As does Mr. Yost, Ms. South concludes that the failure to pay the 3.5-year and 7.5-year maintenance fees resulted from two errors: the first in November 2000 when incorrect maintenance fee due dates were entered in the docketing system, and the second error in June 2004 when the maintenance fee due dates was corrected in the docketing system but there was failure to realize the 3.5-year maintenance fee had not been paid. Ms. South's statement notes that, "[a]t the time of the initial error in 2000, Ms. Cosby had been with the firm for one year, and had five years previous docketing and supervisory experience and an additional three years of experience as an IP specialist. There were approximately 4-6 persons working for Ms. Cosby at the time, including Docketing Clerks, a Maintenance fee/Foreign Annuity Clerk, and a formalities officer." Petitioner states that Linda Bynum-Cosby refused to offer a written account of the failures that

contributed to the delay in paying the maintenance fees, however; petitioner states that Ms. Bynum Cosby reviewed statements regarding the same and did not dispute the accounts relayed therein.

Section 2590 of the Manual of Patent Examining Procedure ("MPEP") provides, in pertinent part, that, "[a]s the language in 35 U.S.C. § 41(c)(1) is identical to that in 35 U.S.C. § 133 (i.e., "unavoidable" delay), a late maintenance fee for the unavoidable delay standard is considered under the same standard for reviving an abandoned application under 35 U.S.C. § 133. Further to this point, MPEP 711.03(c) provides, in pertinent part, that:

[a] showing of unavoidable delay will (in addition to the above) require: (1) evidence concerning the procedures in place that should have avoided the error resulting in the delay; (2) evidence concerning the training and experience of the persons responsible for the error; and (3) copies of any applicable docketing records to show that the error was in fact the cause of the delay. See MPEP § 711.03(c), subsection II.C.2. In addition, a petition under 37 CFR 1.137(a) must establish that the delay was unavoidable, and not just that it was unintentional.

First, neither the petition, nor the statements of Mr. Yost or Ms. South, makes clear who was responsible for non-payment of the maintenance fees. This is important because a determination of whether the delay at issue was unavoidable cannot be made if petitioner does not establish whose actions, or inactions, are at issue. The petition and the statements of Mr. Yost and Ms. South state that Ms. Linda Bynum-Cosby was the direct supervisor of docketing and maintenance fee clerks who would have been responsible for data entry of maintenance fee due dates and for correcting any errors detected in the entry of those dates. Petitioner affirmatively states that this data entry error and failure to realize the 3.5-year maintenance fee had not been paid resulted in the delay in paying the maintenance fee. Yet, petitioner does not affirmatively identify the docketing clerk and/or maintenance fee clerk that committed the errors. A conclusion cannot be reached as to whether the docketing clerk or maintenance fee clerk's error was unavoidable if the clerk is not identified. Although petitioner ^{waives} to *de facto* place the blame for the failure to pay the maintenance fees on Ms. Bynum-Cosby as the supervisor for the docketing and maintenance fee clerks, it is concluded that the actions of Ms. Linda Bynum-Cosby are only material insofar as her actions relate to the training and supervision of the docketing and maintenance fee clerks as the statements of Mr. Yost and Ms. South make clear that it was, in fact, a clerk under Ms. Bynum-Cosby's supervision that was responsible for the error(s) at issue, not Ms. Bynum-Cosby herself.

Further, the Office cannot determine whether, given the clerks' training and experience, it was reasonable to rely on the clerk to perform the task at hand. Further to this point, a showing of unavoidable delay requires evidence concerning the training and experience of the persons responsible for the error. As previously noted, the petition does not

specifically assign responsibility for the error to anyone. However, even were the fact the petitioner cannot identify the clerk responsible for the error to be excused, petitioner cannot specifically address the training and experience of the clerk relative to the entry of maintenance fee due dates and related tasks such that reliance on the clerk represented the exercise of diligence and due care. It is noted that the petition and statements of Ms. South and Mr. Yost speak generally of the task for which the docketing and maintenance fee clerks are responsible. Neither the petition nor the statements of Ms. South and Mr. Yost set forth the specific training that the docketing and maintenance fee clerks would have received so that they could sufficiently carry out their tasks nor is the experience of the clerks set forth. In view thereof, a conclusion cannot be drawn as to whether the reliance on the docketing and maintenance fee clerk(s) represented the exercise of due care such that the docketing error the clerk(s) allegedly committed can be considered unavoidable delay.

It is noted that Section 711.03(c) of the MPEP also explains that the legal standard employed for deciding petitions asserting unavoidable delay is the reasonably prudent person standard and states, in pertinent part, that:

[t]he word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present. *In re Mattullath*, 38 App. D.C. 497, 514-15 (1912)(quoting *Pratt*, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also *Winkler v. Ladd*, 221 F. Supp. 550, 552, 138 USPQ 666, 667-68 (D.D.C. 1963), *aff'd*, 143 USPQ 172 (D.C. Cir. 1963); *Ex parte Henrich*, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." *Smith v. Mossinghoff*, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." *Haines v. Quigg*, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

The petition for reconsideration under 37 CFR 1.378(e) has failed to establish that the maintenance of the patent was treated as petitioner's most important business and that petitioner acted reasonably and prudently relative to the same. The patent expired in March of 2001. Under the auspices of petitioner's employees, an inquiry was made 2004 with the patent holder to determine whether the patent holder wished to pay the 7.5-year maintenance fee. The patent holder remitted the monies for the 7.5-year maintenance fee to Blank Rome LLP in August 2004 to be forwarded to the USPTO. In August 2004, Blank Rome LLP sent an authorization to charge a deposit account for the 7.5-year maintenance fee⁹. Petitioner asserts that no notice was

⁹ There is no indication in USPTO records that the 7.5-year maintenance fee was ever charged to a deposit account.

ever provided by the USPTO of the rejection of the authorization to charge the 7.5-year maintenance fee. Neither was there any confirmation from the USPTO that the 7.5-year maintenance had been accepted. Implicit in this assertion is that the USPTO had some role in the delay in paying the maintenance fee. It is noted that upon issuance of the patent, patentees are informed of the due dates for payment of the maintenance fees—this is the extent of mandate of the USPTO in this regard. Thereafter, patentee, or its agent, is responsible for tracking the maintenance fee due date, timely remitting the payment, and ensuring the same is accepted by the USPTO. The USPTO was under no obligation to inform patentee that the authorization to charge the 7.5-year maintenance fee was not acted upon because the patent was expired for non-payment of the 3.5 year maintenance fee. Likewise, the USPTO is under no obligation to inform petitioner that the maintenance fee was accepted. It is reasonable to expect that somewhere in the period from March 2001—when the patent expired--until March 2004--when the period opened for payment of the 7.5 year maintenance fee--that petitioner may have checked the status of the patent thereby discovering that patent was expired. Such a status check might have included a telephone inquiry to the USPTO, a check of the USPTO website, or even a check of petitioner's deposit account records to ascertain whether the 7.5-year maintenance fee had been charged. Petitioner ^{states that} such routine checks are not performed by petitioner and intimates that such checks present an undue burden on petitioner. Notwithstanding, it is noted that petitioner concedes that such a routine check prior to the attempt to pay 11.5-year maintenance fee resulted in petitioner finally realizing in 2008 that the patent was expired since 2001. Arguably, the exercise of prudence would dictate that petitioner check the status of the patent prior to attempting payment of the maintenance fee. Petitioner's failure to check the status of the subject patent in eleven years since it issued is arguably imprudent and belies the assertion that petitioner treated the maintenance of the patent as petitioner's most important business.

It is further noted that the subject patent was expired for seven years before the expiration was discovered. Arguably, in treating the patent as its most important business, the exercise of diligence and prudence relative to the maintenance of the subject patent would dictate that petitioner initiate periodic checks as to the status of the patents maintained. If such a business routine were in place, the patent would likely not have remained expired for seven years and two maintenance fee payments missed. The petition is silent as to any business routine in place that would safeguard against a patent being expired for extended periods of time and, in fact, petitioner indicates that no such routine procedure exists. The apparent lack of such a safeguard further indicates that petitioner did not exercise the reasonable prudence and diligence in the maintenance of the patent which is the hallmark of establishing unavoidable delay as it is defined by 37 CFR 1.378(b).

CONCLUSION

For the reasons stated above, the petition under 37 CFR 1.378(e) is **DENIED**. Therefore, the patent will not be reinstated and remains expired.

As stated in 37 CFR 1.378(e), no further reconsideration or review of this matter will be undertaken.

The amount of \$1,165.00 that was paid for the maintenance fees and surcharge will be refunded, in due course.

This application file is being forwarded to Files Repository.

Telephone inquiries concerning this matter may be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Anthony Knight
Director
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BLANK ROME LLP
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON DC 20037

MAILED

SEP 27 2010

OFFICE OF PETITIONS

In re Patent No. RE36770 :
Issued: July 11, 2000 : ON PETITION
Application No. 09/273,567 :
Filed: March 22, 1999 :
Reissue of Patent No. 5,614,737 :
Original Issued: March 25, 1997 :
Attorney Docket No. 105773.00110 :

This is a second request for information in response to the petition under 37 CFR 1.378(e), filed November 30, 2009, to reinstate the above-cited patent.

Petitioner is allowed a non-extendable period for reply of **TWO (2) MONTHS** from the mailing date of this communication to provide a response. The response should be titled, "Response to Request for Information." If no response is provided within the period set forth, a decision will be made solely on the merits as set forth in the record as it exists currently. No additional fees are due.

The original patent issued March 25, 1997. The 3.5 year maintenance fee could have been paid from March 25, 2000, through September 25, 2000, or with a surcharge, as authorized by 37 CFR 1.20(h), during the period from September 26, 2000 to March 25, 2001. The maintenance fee was not paid. Accordingly, the patent expired at midnight on March 25, 2001.

Petitioner is required to address the following point:

The papers filed June 8, 2010, contained an Issue Notification with the Blank and Rome "Docketing" stamp containing a notation that indicated that the maintenance fees for the subject were docketed as: 3.5-year fee due September 25, 2004, 7.5-year fee due September 25, 2008, and 11.5-year fee due September 25, 2012, otherwise referred to by petitioner as "Exhibit B". It is established that these are not the correct maintenance fee due dates for the subject reissue patent. Of material value, however, are the initials that appear on the docketing notation. Petitioner is required to explain whose initials these are, the position of this person at Blank and Rome, and the training and experience of this person relative to the entry of the maintenance fee due date and related tasks.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patent
Mail Stop Petitions
Box 1450
Alexandria, VA 22313-1460

Reissue of Patent No. 5,614,737

RE36770

2

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petition Attorney
Office of Petitions

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6353242	2002-03-05	09274481	1999-03-23	001701.79827

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input checked="" type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Gary D. Fedorochko/	Date (YYYY-MM-DD)	2011-09-09
Name	Gary D. Fedorochko	Registration Number	35509
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6353242 :
Issue Date: March 5, 2002 :
Application No. 09274481 :DECISION GRANTING PETITION
Filed: March 23, 1999 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 01701.79827 :

This is a decision on the electronic petition, filed September 9, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 9, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



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P.O. Box 1450
Alexandria, VA 22313-1450
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MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON DC 20005-3096

MAILED
AUG 23 2011
OFFICE OF PETITIONS

In re Patent No. 6,389,056	:	
Issue Date: May 14, 2002	:	
Application No. 09/275,010	:	ON PETITION
Filed: March 24, 1999	:	
Attorney Docket No. GBT152US	:	

This is a decision on the petition under 37 CFR 1.378(c), filed August 1, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Any petition for reconsideration of this decision must be accompanied by the petition fee of \$400 as set forth in 37 CFR 1.17(f). The petition for reconsideration must include the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

A petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. 41(c) and 37 CFR 1.378(c) must be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2). This petition lacks none of the above items.

However, the instant petition was filed on behalf of the assignee and included the requisite Statement under 37 CFR 3.73(b). The statement appears to be defective as it was not signed by the proper party. A person having a title (administrator, general counsel) that does not clearly set forth that person as an officer of the assignee is not presumed to have authority to sign the submission on behalf of the assignee. The submission may be signed by a person in the organization having apparent authority to sign on behalf of the organization. 37 CFR 3.73(b)(2)(ii). An officer (chief executive officer, president, vice-president, secretary, or treasurer) is presumed to have authority to sign on behalf of the organization. The signature of the chairman of the board of directors is acceptable, but not the signature of an individual

director. Modifications of these basic titles are acceptable, such as vice-president for sales, executive vice-president, assistant treasurer, vice-chairman of the board of directors. A power of attorney (37 CFR 1.32(b)(4)) to a patent practitioner to prosecute a patent application executed by the applicant or the assignee of the entire interest does not make that practitioner an official of an assignee or empower the practitioner to sign the submission on behalf of the assignee.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
 Commissioner for Patents
 Post Office Box 1450
 Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
 Customer Service Window, Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Telephone inquiries should be directed to the undersigned at (571) 272-3206.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions



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Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON DC 20005-3096

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NOV 22 2011

OFFICE OF PETITIONS

Patent No. 6,389,056
Application No. 09/275,010
Filed: March 24, 1999
Issued: May 14, 2002
Attorney Docket No. GBTI52US

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:
:
:

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.378(c), filed October 24, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The patent issued May 14, 2002. The last day of the grace period for paying the 7.5-year maintenance fee was May 14, 2010. Therefore, since this petition was filed within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), this petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a request to change the address of record should be filed. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record. Petitioner should note that a change of correspondence address would not affect the fee address. Therefore, if petitioner desires to receive future correspondence, which **may** be mailed regarding maintenance fees for the above-identified patent, the "fee address" and/or "customer number" forms should be submitted.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: ELMER YUEN
25 JAMES WAY
EATONTOWN, NJ 07724



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6284545 :
Issue Date: September 4, 2001 :
Application No. 09275040 :DECISION GRANTING PETITION
Filed: March 24, 1999 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 99048 :

This is a decision on the electronic petition, filed August 30, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 30, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,284,545	2001-09-04	09/275,040	1999-03-24	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input checked="" type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Christine W. Trebilcock/	Date (YYYY-MM-DD)	2011-08-30
Name	Christine W. Trebilcock	Registration Number	41373
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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MAR 22 2012

OFFICE OF PETITIONS

GEORGE A. HERBSTER
100 CUMMINGS CENTER
SUITE 213-C
BEVERLY, MA 01915

In re Patent No. 6,091,488
Issue Date: July 18, 2000
Application No. 09/275,349
Filed: March 22, 1999
Patentee(s): Robert Bishop

NOTICE

This is a Notice regarding your "Notice of Loss of Entitlement to Small Entity Status," filed on February 13, 2012, which is being treated as a request for acceptance of a fee deficiency submission under 37 CFR 1.28(c).

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**. Therefore, status as a small entity has been removed.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3226.

/Andrea Smith/
Andrea Smith
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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**VOLENTINE & WHITT PLLC
ONE FREEDOM SQUARE
11951 FREEDOM DRIVE SUITE 1260
RESTON VA 20190**

MAILED

MAY 10 2011

OFFICE OF PETITIONS

In re Application of
Seung-Dong KANG et al.
Application No. 09/275,808
Filed: March 25, 1999
Attorney Docket No. SEC.626

:
:
: **DECISION ON PETITION**
:
:

This is a decision on the petition under 37 CFR 1.181, filed January 13, 2011, which is being treated as a renewed petition under the unintentional provisions of 37 CFR 1.137(b), to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely pay the issue and publication fees and to submit corrected formal drawings on or before September 19, 2000, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed June 19, 2000. Accordingly, the date of abandonment of this application is September 20, 2000.

A review of the written record indicates no irregularity in the mailing of the Notices. On August 29, 2001 the Notice of Abandonment was mailed to Jones Volentine Steinbert & Whitt. A change of address was not filed until October 12, 2007. The failure to receive a petition decision cannot be a persuasive argument that the abandonment was improper. Abandonment occurs by statute. The application was properly abandoned.

A renewed 37 CFR 1.137(b) is required. The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire

delay, including the date it was discovered that the application was abandoned until the filing of a grantable petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
 Commissioner for Patents
 P. O. Box 1450
 Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
 Customer Service Window, Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300**.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.



Thurman K. Page
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED
JUN 21 2011
OFFICE OF PETITIONS

VOLENTINE & WHITT PLLC
ONE FREEDOM SQUARE
11951 FREEDOM DRIVE SUITE 1260
RESTON VA 20190

In re Application of :
Seung-Dong KANG et al. :
Application No. 09/275,808 : **DECISION ON PETITION**
Filed: March 25, 1999 :
Attorney Docket No. SEC.626 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed May 26, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowability, mailed June 19, 2000, which set a period for reply of three (3) months. Accordingly, this application became abandoned on September 20, 2000.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of formal drawings, (2) the petition fee of \$1,620.00, and (3) a proper statement of unintentional delay. Accordingly, the reply to the Notice of Allowability, of June 19, 2000 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

This application is being referred to Publishing Division for processing into a patent.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6690430	2004-02-10	09276165	1999-03-25	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|---|-----|--------|
| <input type="radio"/> 3 ½ year | | (1551) |
| <input checked="" type="radio"/> 7 ½ year | | (1552) |
| <input type="radio"/> 11 ½ year | | (1553) |

Small Entity

- | | Fee | Code |
|---------------------------------|-----|--------|
| <input type="radio"/> 3 ½ year | | (2551) |
| <input type="radio"/> 7 ½ year | | (2552) |
| <input type="radio"/> 11 ½ year | | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Marvin Motsenbocker/	Date (YYYY-MM-DD)	2012-03-23
Name	Marvin A. Motsenbocker	Registration Number	36614
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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In re Patent No. 6690430 :
Issue Date: February 10, 2004 :
Application No. 09276165 :DECISION GRANTING PETITION
Filed: March 25, 1999 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 4040 :

This is a decision on the electronic petition, filed March 23, 2012, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 23, 2012. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 01/11/2012

TO SPE OF : ART UNIT: 2813 Attn: LANDAU MATTHEW C (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/277328 Patent No.: 6448102

CofC mailroom date: 01/03/2012

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

**Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580**

Note: Please check Claim 3
Should this claim be corrected according to the request or not

Tasneem Siddiqui
Certificates of Correction Branch
703-756-1814 & 703-756-1593

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes do not apply.

☐ **Denied**

State the reasons for denial below.

Comments: _____

/Matthew Landau/

2813

SPE

Art Unit



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GREENBERG TRAURIG, LLP (DC/ORL)
2101 L STREET, N.W.
SUITE 1000
WASHINGTON DC 20037

MAILED
APR 11 2011
OFFICE OF PETITIONS

In re Patent No. 6,438,526
Issue Date: August 20, 2002
Application No. 09/277,771
Filed: March 29, 1999
Attorney Docket No. 27137.010200

ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed March 4, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

A petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. 41(c) and 37 CFR 1.378(c) must be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2). This petition lacks item (1) above.

With respect to item (1): The statement of delay is not acceptable because the petition is not signed by all the inventors and the record fails to disclose that petitioner herein (Richard J. Heiston) was ever given a power of attorney to act on behalf of inventor Frederick T. Dykes, or that he is an assignee of the entire interest and has complied with the provisions of 37 CFR 3.73(b), the petition is considered to not contain a proper statement of unintentional delay.

Any petition for reconsideration of this decision must be accompanied by the petition fee of \$400 as set forth in 37 CFR 1.17(f). The petition for reconsideration must include the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
 Commissioner for Patents
 Post Office Box 1450
 Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
 Customer Service Window, Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Telephone inquiries should be directed to the undersigned at (571) 272-6735.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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GREENBERG TRAURIG, LLP (DC/ORL)
2101 L STREET, N.W.
SUITE 1000
WASHINGTON DC 20037

MAILED

JUN 20 2011

OFFICE OF PETITIONS

In re Patent No. 6,438,526
Issue Date: August 20, 2002
Application No. 09/277,771
Filed: March 29, 1999
Attorney Docket No. 27137.010200

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.378(c), filed May 13, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on August 20, 2010, for failure to pay the seven and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Petitioner has appointed a representative to conduct all business before the U.S. Patent and Trademark Office (Office). The Office will not engage in dual correspondence with petitioner and petitioner's representative. Accordingly, petitioner must conduct all future correspondence with this Office through the representative of record. If petitioner no longer wishes to be represented by the representative of record, then a revocation of the power of attorney or patent agent should be submitted. A correspondence address must be included on the correspondence instructing the Office where all future communications are to be mailed. See 37 CFR 1.33(a).

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

The patent file is being forwarded to Files Repository.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc: FREDERICK T. DYKES
 11109 RICHLAND VALLEY DR
 GREAT FALLS, VA 22066

cc: RICHARD HEISTON
 P.O. BOX 1768
 SEAFORD DE 19973



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DW Sep-11

Paper No. 10

KOHN & ASSOCIATES, PLLC
30500 NORTHWESTERN HWY.
SUITE 410
FARMINGTON HILLS MI 48334-3179

MAILED
SEP 13 2011
OFFICE OF PETITIONS

In re Patent No. 6,132,432	:	
Issue Date: 10/17/2000	:	
Application Number: 09/280,283	:	LETTER
Filing Date: 03/29/1999	:	
Attorney Docket Number:	:	
0123.00017	:	

This is a communication in reference to the letter styled as a petition filed on July 20, 2011, concerning the expiration of the above-identified patent.

The Office can neither grant nor deny the petition because it is not accompanied by payment of the requisite petition fee and maintenance fee. Any petition to accept delayed payment of a maintenance fee must be accompanied by the required maintenance fee set forth in 37 CFR 1.20(e)-(g) and the surcharge set forth in 37 CFR 1.20(i)(1) or (2).¹ Patent and Trademark fees and charges payable to the Patent and Trademark Office are required to be paid in advance, that is, at the time of requesting any action by the Office for which a fee or charge is payable.² As such, the petition fee is a prerequisite to the filing of the present petition, and the Office will not reach the merits of the petition unless and until the petition fee is submitted.

¹See MPEP 2580 and 37 CFR 1.378(b) and (c).

²37 CFR 1.22(a).

In this regard, on September 7, 2011, counsel's deposit account, No. 11-1449, contained a balance of \$958.00, which is insufficient to charge both the second maintenance fee (small entity) of \$1,240.00 and the surcharge after expiration of 700.00.

37 CFR 1.25(a) states, in pertinent part, that an amount sufficient to cover all fees, services, copies, etc., requested must always be on deposit. Charges to accounts with insufficient funds will not be accepted.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

By FAX: (571) 273-8300
 Attn: Office of Petitions

By hand: Customer Service Window
 Mail Stop Petition
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

A reply may also be filed via the EFS-Web system of the USPTO.

Telephone inquiries should be directed to the undersigned at 571-272-3231.



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions



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DW Sep-11

KOHN & ASSOCIATES, PLLC
30500 NORTHWESTERN HWY.
SUITE 410
FARMINGTON HILLS MI 48334-3179

MAILED
SEP 27 2011
OFFICE OF PETITIONS

In re Patent No. 6,132,432 :
Issue Date: 10/17/2000 :
Application Number: 09/280,283 : DECISION ON PETITION
Filing Date: 03/29/1999 :
Attorney Docket Number: :
0123.00017 :

This is a decision on the petition under 37 CFR 1.378(b),¹ filed on September 19, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is dismissed.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this 2-month time limit can be granted under 37 CFR 1.136(a) or (b). Any such petition for reconsideration must be accompanied by the petition fee of \$400.00 as set forth in 37 CFR 1.17(f).

¹A grantable petition to accept a delayed maintenance fee payment under 37 CFR 1.378(b) must include

(1) the required maintenance fee set forth in § 1.20(e) through (g);
(2) the surcharge set forth in § 1.20(I)(1); and
(3) a showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

The petition for reconsideration should include an exhaustive attempt to provide the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

The patent issued on October 17, 2000. The first maintenance fee was timely paid. The second maintenance fee could have been paid during the period from October 17, 2007 through April 17, 2008, or with a surcharge during the period from April 18 through October 17, 2008. Accordingly, the patent expired at midnight on October 17, 2008, for failure to timely pay the second maintenance fee.

On July 20, 2011, a letter styled as a petition under 37 CFR 1.378(b) was filed. However, a review of Office financial records reveals counsel's deposit account contained insufficient funds to charge the maintenance and petition fees. A letter was mailed in response on September 13, 2011, stating that the petition could not be granted nor denied in the absence of the required fees.

Petitioner states the sole inventor of the patent, Marc Richelsoph (hereinafter "Richelsoph") was an officer of Spinal Innovations, LLC (hereinafter "SI").

Petitioner further asserts, in pertinent part:

4. In 2006, the business relationship dissolved between Marc Richelsoph and Spinal Innovations, LLC, whereby the patent portfolio of which this instant matter was a part, was retained by Spinal Innovations, LLC, with the right of first refusal to Marc Richelsoph should Spinal Innovations, LLC, decide not to proceed with prosecution of any pending application, or payment of any maintenance fee.

5. Subsequent to the dissolution of the partnership between Marc Richelsoph and Spinal Innovations, LLC, patent counsel remained counsel of record to Spinal Innovations, LLC, and as such, provided notices to Spinal Innovations, LLC, in the course normal business practices as related to intellectual property.

6. Spinal Innovations, LLC, had a fiduciary responsibility to Marc Richelsoph to advise Marc Richelsoph that it was not taking action to pay the 7½-

year maintenance fee, but did not do so, therefore, Marc Richelsoph was not accorded his right of first refusal and had no knowledge that the maintenance fee was not to be paid.

7. Had Marc Richelsoph known of Spinal Innovations, LLC's, intention to not pay the 7½-year maintenance fee, Marc Richelsoph would have paid the same and resumed ownership of the patent as he had directed payment of the first maintenance fee, and it is his intent to pay the final maintenance fee.

8. Marc Richelsoph became aware that the 7½-year maintenance fee was not paid when he contacted counsel on April 1, 2011, to ascertain the amount due for the final 11½-year maintenance fee, and when it was due, only to learn that the patent had expired for nonpayment of the previous maintenance fee, and instructed legal counsel to file this instant Petition.

9. To avoid conflict of interest, the undersigned legal counsel had to take steps to ensure filing this Petition on behalf of Marc Richelsoph would not pose legal issues between legal counsel and Spinal Innovations, LLC, or legal issues between Marc Richelsoph and Spinal Innovations, LLC, as a result of this legal counsel's filing this Petition.

The Director may accept late payment of the maintenance fee if the delay is shown to the satisfaction of the Director to have been "unavoidable".² A patent owner's failure to pay a maintenance fee may be considered to have been "unavoidable" if the patent owner "exercised the due care of a reasonably prudent person."³ This determination is to be made on a "case-by-case basis, taking all the facts and circumstances into account."⁴ Unavoidable delay under 35 U.S.C. § 41(b) is measured by the same standard as that for reviving an abandoned application under 35 U.S.C. § 133.⁵ Under 35 U.S.C. § 133, the Director may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Director to have been "unavoidable". Decisions on reviving

² 35 U.S.C. § 41(c)(1).

³ Ray v. Lehman, 55 F.3d 606, 608-09 (Fed.Cir.), cert. denied, -- U.S. ---, 116 S.Ct. 304, L.Ed.2d 209 (1995).

⁴ Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982).

⁵ In re Patent No. 4,409,763, 7 USPQ2d 1798, 1800 (PTO Comm'r 1988).

abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable.⁶ However, a petition to revive an application as unavoidably abandoned cannot be granted where a petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay.⁷ In view of In re Patent No. 4,409,763,⁸ this same standard will be applied to determine whether "unavoidable" delay within the meaning of 37 CFR 1.378(b) occurred.

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.378(b):

- (1) The delay in reply that originally resulted in expiration;
- (2) The delay in filing an initial petition pursuant to § 1.378(b) to revive the application; and
- (3) The delay in filing a *grantable* petition pursuant to § 1.378(b) to revive the application.⁹

This petition lacks the showing required by periods (1) and (2).

With regard to period (1), this petition does not satisfy the requirement of 37 CFR 1.378(b)(3). The statements presented in the petition fail to satisfy the showing required to establish unavoidable delay within the meaning of 37 CFR 1.378(b).

Petitioner asserts that SI had a fiduciary responsibility to advise Richelsoph that SI had decided not to pay the 7 ½ year maintenance fee, but that SI failed to pay the maintenance fee and failed to inform Richelsoph that SI had decided not to pay the maintenance fee.

At the outset, petitioner has not provided a copy of the assignment or other agreement showing that Richelsoph had assigned his interest in the patent to SI. Further, no showing has been provided that SI had agreed to pay the maintenance fee or timely inform Richelsoph if SI decided not to pay the

⁶ Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913).

⁷ Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

⁸ 7 USPQ2d 1798, 1800 (Comm'r Pat. 1988), aff'd sub nom. Rydeen v. Quigg, 748 937 F.2d 623 (Fed. Cir. 1991) (table), cert. denied, 502 U.S. 1075 (1992).

⁹ See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131 at 53158 (October 10, 1997).

maintenance fee. In this regard, a copy of the agreement must be provided. Furthermore, petitioner must obtain affidavits or declarations of facts from person with first-hand knowledge of the details of the decision not to pay the maintenance fee, setting forth the facts as they know them.

In this regard, reliance upon third party prosecution of a patented file without an express contractual obligation designating the third party as the sole payor of the maintenance fees does not constitute unavoidable delay within the meaning of 35 U.S.C. § 133.¹⁰ Assuming, *arguendo*, such a contract does exist, petitioner is further required to show that steps were taken by petitioner to inquire as to the third party's reasonably diligent efforts to timely pay the maintenance fees.¹¹ If petitioner can not provide evidence that a third party was contractually obligated to pay the maintenance fees in the present patent and that petitioner had maintained inquiry with that third party as to the steps taken to timely pay the maintenance fee, the petitioner must indicate what steps were taken by the petitioner to ensure timely payment of the maintenance fee.

In this case, petitioner has not provided a copy of the contract in which SI states that it will pay the maintenance fees or timely inform Richelsoph of its intention not to pay the maintenance fees.

Assuming, *arugendo*, the patent had been assigned to SI; SI, as the assignee of the entire interest was free to deal with the patent as SI willed.¹² As such, petitioner, as the putative successor in title, is bound by the delay resulting from SI, its partners, or their principles' business decisions, actions, or inactions, including those business decisions, actions, or inactions which led to the failure to obtain or remit, the maintenance fee herein, or the failure of SI to earlier assign its rights to petitioner.¹³ As petitioner acquired his interest after the patent expired, that he may have subsequently acted with diligence is immaterial to the delay that led to the expiration of the patent.¹⁴ Rather, petitioner, as the successor in title to SI's patent, is bound by SI, its partners,

¹⁰ See Futures Technology Ltd. v. Quigg, 7 USPQ2d 1588 (E.D. Va. 1988).

¹¹ See Winkler v. Ladd, 138 USPQ 666 (Comm'r Pat. 1963).

¹² See Garfield v. Western Electric Co., 298 F.659 (S.D.N.Y. 1924).

¹³ See Winkler v. Ladd, 221 F.Supp. 550, 552, 138 USPQ 666, 667 (D.D.C. 1963).

¹⁴ See Kim v. Quigg, 718 F.Supp. 1280, 12 USPQ2d 1604 (E.D. Va 1989).

or their principal's previous business decisions, actions, or inactions, regarding the maintenance fee for this patent.¹⁵

Furthermore, assuming, *arguendo*, that SI was obligated to pay the maintenance fee in this patent, petitioners should send a letter to SI or its counsel asking SI to explain the circumstances surrounding its agreement with Richelsoph concerning payment of the second maintenance fee for the subject patent, whether SI had agreed to pay the second maintenance fee, and whether, if SI had decided not to maintain this patent in force, SI attempted to contact Richelsoph in a timely manner to allow him to maintain this patent in force. Petitioners should include a copy of the response to the letter with any renewed petition. If no response is received, petitioners should so state in any renewed petition.

Regardless of whether or not SI was obligated to pay the maintenance fee, however, petitioners are required to show that steps were taken by petitioner to inquire as to the third party's reasonably diligent efforts to timely pay the maintenance fees.¹⁶ The showing of record, however, is that no attempts were made to contact SI, or its counsel until April 1, 2011, at least four years after the end of 2006, the year during which the business relationship between SI and Richelsoph dissolved. Rather than a showing of steps in place, the record suggests that petitioner Richelsoph simply assumed that SI would pay the maintenance fee, but made no attempt to verify its timely submission.

In any event, the Office is not the proper forum for resolving a dispute as to the effectiveness of communications between parties regarding the responsibility for paying a maintenance fee.¹⁷

The U.S. Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and applicant is bound by the consequences of those actions or inactions.¹⁸ Specifically, petitioner's delay caused by the mistakes or negligence of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 U.S.C. § 133.¹⁹

¹⁵ Winkler, supra; Kim supra.

¹⁶ See Winkler v. Ladd, 138 USPQ 666 (Comm'r Pat. 1963).

¹⁷ Ray v. Lehman, 55 F.3d at 610.

¹⁸ Link v. Wabash, 370 U.S. 626, 633-34 (1962).

¹⁹ Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N. D. Ind. 1987); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (Comm'r Pat. 1891).

A delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP does not constitute an "unavoidable" delay.²⁰ A delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered "unavoidable" due to: (1) the applicant's reliance upon oral advice from Office employees; or (2) the Office's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action.²¹

Lastly, with regard to petitioner's statement regarding SI's "intention not to pay the 7 ½ year maintenance fee," the showing of record suggest that petitioner SI intentionally delayed payment of the maintenance fee.

The "unavoidable" standard in 35 U.S.C. § 41(c)(1) is identical to the "unavoidable" standard in 35 U.S.C. § 133 for reviving an abandoned application because 35 U.S.C. § 41(c)(1) uses the same language (*i.e.*, "unavoidable" delay).²² Likewise, the "unintentional" standard in 35 U.S.C. § 41(c)(1) is the same as the "unintentionally" standard in 35 U.S.C. § 41(a)(7) because 35 U.S.C. § 41(c)(1) uses the same word ("unintentional"), albeit in a different part of speech (*i.e.*, the adjective "unintentional" rather than the adverb "unintentionally"). With regard to the "unintentional" delay standard:

²⁰ Id.

²¹ See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985); see also In re Colombo, Inc., 33 USPQ2d 1530, 1532 (Comm'r Pat. 1994) (while the Office attempts to notify applicants of deficiencies in their responses in a manner permitting a timely correction, the Office has no obligation to notify parties of deficiencies in their responses in a manner permitting a timely correction).

²² See Ray v. Lehman, 55 F.3d 606, 608-09, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995) (citing In re Patent No. 4,409,763, 7 USPQ2d 1798, 1800 (Comm'r Pat. 1988), *aff'd*, Rydeen v. Quigg, 748 F. Supp. 900, 16 USPQ2d 1876 (D.D.C. 1990)).

Where the applicant deliberately permits an application to become abandoned (e.g., due to a conclusion that the claims are unpatentable, that a rejection in an Office action cannot be overcome, or that the invention lacks sufficient commercial value to justify continued prosecution), the abandonment of such application is considered to be a deliberately chosen course of action, and the resulting delay cannot be considered as "unintentional" within the meaning of [37 CFR] 1.137(b). . . . An intentional delay resulting from a deliberate course of action chosen by the applicant is not affected by: (1) the correctness of the applicant's (or applicant's representative's) decision to abandon the application or not to seek or persist in seeking revival of the application; (2) the correctness or propriety of a rejection, or other objection, requirement, or decision by the Office; or (3) the discovery of new information or evidence, or other change in circumstances subsequent to the abandonment or decision not to seek or persist in seeking revival.²³

The "unavoidable" delay and "unintentional" delay standards are not alternatives: an "unavoidable" delay is the epitome of an "unintentional" delay. A petition under 37 CFR 1.378 cannot be granted unless it meets the minimal "unintentional" delay threshold. Thus, an intentional delay precludes revive under 37 CFR 1.378(b) (on the basis of "unavoidable" delay) or 37 CFR 1.378(c) (on the basis of "unintentional" delay).²⁴

In regards to period (2) above, as enumerated above, petitioner states that petitioner learned that the subject patent had expired on April 1, 2011. The subject petition was not filed until September 19, 2011, however, over five months after petitioner learned that the patent had expired. While it is noted that petitioner's counsel states that counsel "had to take steps to ensure filing this Petition on behalf of Marc Richelsoph would not pose legal issues between legal counsel and [SI] or legal issues between Marc Richelsoph and [SI]," petitioner must, nonetheless, provide a documented showing that the entire delay, from when petitioner learned that the patent had become expired, until the date the subject petition was filed, was unavoidable.

²³ See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 86 (October 21, 1997) (discussing the meaning of "unintentional" delay in the context of the revival of an abandoned application).

²⁴ See In re Maldaque, 10 USPQ2d 1477, 1478 (Comm'r Pat 1988).

As the showing presented is insufficient to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a). Thus, the petition will be dismissed.

Petitioner should note that if this petition is not renewed, or if renewed and not granted, then the maintenance fee and post-expiration surcharge are refundable. The \$400.00 petition fee for seeking reconsideration is not refundable. Any request for refund should be in writing to the address noted below.

The maintenance fee and surcharge will be charged to counsel's deposit account, as authorized in the subject petition.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

By FAX: (571) 273-8300
 Attn: Office of Petitions

By hand: Customer Service Window
 Mail Stop Petition
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

Telephone inquiries should be directed to the undersigned at 571-272-3231.



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6422462
Issue Date: July 23, 2002
Application No. 09280483
Filed: March 30, 1999
Attorney Docket No. 4018.002

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed August 18, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 18, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,422,462	2002-07-23	09/280,483	1999-03-30	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input checked="" type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Morris E. Cohen/	Date (YYYY-MM-DD)	2011-08-18
Name	Morris E. Cohen	Registration Number	39947
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6453374 :
Issue Date: September 17, 2002 :
Application No. 09281584 :DECISION GRANTING PETITION
Filed: March 30, 1999 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 99CR060/KE :

This is a decision on the electronic petition, filed November 5, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 5, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6453374	2002-09-17	09281584	1999-03-30	99CR060

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input checked="" type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

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|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Matthew J. Evans/	Date (YYYY-MM-DD)	2010-11-05
Name	Matthew J. Evans	Registration Number	56530
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6401117	2002-06-04	09282790	1999-03-31	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input checked="" type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Kendal M. Sheets/	Date (YYYY-MM-DD)	2010-09-03
Name	Kendal M. Sheets	Registration Number	47077
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6401117
Issue Date: June 4, 2002
Application No. 09282790
Filed: March 31, 1999
Attorney Docket No. 1065C-2

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed September 3, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 3, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7,130,429	2006-10-31	09/283,587	1999-04-01	67048US003

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input checked="" type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Kevin Weber/	Date (YYYY-MM-DD)	2011-09-27
Name	Kevin W. Weber	Registration Number	66468
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

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2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
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In re Patent No.	7130429	:
Issue Date:	October 31, 2006	
Application No.	09283587	:DECISION GRANTING PETITION
Filed:	April 1, 1999	:UNDER 37 CFR 1.378(c)
Attorney Docket No.	67048US003	:

This is a decision on the electronic petition, filed September 27, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 27, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6421730	2002-07-16	09283662	1999-04-01	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input checked="" type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

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Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Kendal M. Sheets/	Date (YYYY-MM-DD)	2010-09-03
Name	Kendal M. Sheets	Registration Number	47077
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

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6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
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In re Patent No. 6421730
Issue Date: July 16, 2002
Application No. 09283662
Filed: April 1, 1999
Attorney Docket No. 1065C-3

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed September 3, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 3, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6381450	2002-04-30	09285274	1999-04-02	P-1235-US

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input checked="" type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

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Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Kendal M. Sheets/	Date (YYYY-MM-DD)	2010-10-15
Name	Kendal M. Sheets	Registration Number	47077
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

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6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
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In re Patent No. 6381450
Issue Date: April 30, 2002
Application No. 09285274
Filed: April 2, 1999
Attorney Docket No. P-1235-US

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed October 18, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 18, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**BEN D. TOBOR
BRACEWELL & PATTERSON, LLP
711 LOUISIANA
SUITE 2900
HOUSTON TX 77002**

MAILED

OCT 12 2010

OFFICE OF PETITIONS

In re Application of

PINK, John J.

Application No. 09/285,372

Filed: April 02, 1999

Attorney Docket No. **2626.231/BDT**

**DECISION ON PETITION
TO WITHDRAW
FROM RECORD**

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 22, 2010.

The request is **NOT APPROVED**.

The Office has revised its change in procedure for request to withdraw from representation applies to requests filed on or after May 12, 2008.

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because the request to change the correspondence address is not that of: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71 who has properly intervened.

If an assignee has intervened in this application, then a Statement under 37 CFR 3.73(b) or a copy of the actual assignment must be submitted with a renewed request.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **AMANA COMPANY, L.P.**
2800 220TH TRAIL
AMANA, IOWA 52204



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HUSCH BLACKWELL SANDERS, LLP
HUSCH BLACKWELL SANDERS LLP WELSH & KATZ
120 S RIVERSIDE PLAZA
22ND FLOOR
CHICAGO IL 60606

MAILED
FEB 14 2011
OFFICE OF PETITIONS

In re Patent No. 6,454,730	:	Paper No. 18
Issue Date: September 24, 2002	:	
Application No. 09/285,559	:	DECISION ON PETITION
Filed: April 02, 1999	:	
Attorney Docket No. 3216/75036	:	

This is a decision on the petition under 37 CFR 1.378(c), filed November 18, 2010, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Any petition for reconsideration of this decision must be accompanied by the petition fee of \$400 as set forth in 37 CFR 1.17(f). The petition for reconsideration must include the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

This patent expired at midnight on September 24, 2010 for failure to pay the seven and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

A petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. 41(c) and 37 CFR 1.378(c) must be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2). This petition lacks item (2) above in that the total amount due for a small entity is \$2880 that includes the maintenance fee amount of \$1240 and a surcharge of \$1640 for unintentional

delay. Petitioner has paid \$810. The Balance of \$2070 is now due towards the maintenance fee and surcharge.

Petitioner should note that any renewed petition must include a total payment of \$2470 to cover the \$400 petition fee for a renewed petition and the balance of \$2070 due towards the maintenance fee and surcharge, as noted above.

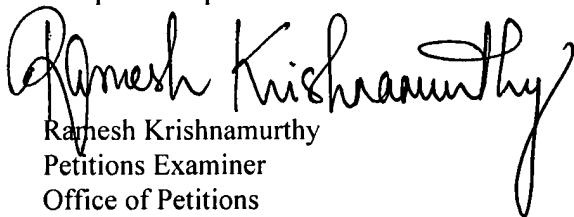
Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
 Commissioner for Patents
 Post Office Box 1450
 Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
 Customer Service Window, Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Telephone inquiries should be directed to Tredelle Jackson at 571-272-2783.


Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HUSCH BLACKWELL SANDERS, LLP
HUSCH BLACKWELL SANDERS LLP WELSH & KATZ
120 S RIVERSIDE PLAZA
22ND FLOOR
CHICAGO IL 60606

MAILED

MAR 28 2011

OFFICE OF PETITIONS

In re Patent No. 6,454,730 :
Issue Date: September 24, 2002 :
Application No. 09/285,559 : **DECISION ON PETITION**
Filed: April 02, 1999 :
Attorney Docket No. 3216/75036 :

This is a decision on the renewed petition under 37 CFR 1.378(c), filed February 28, 2011, and resubmitted on March 14, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired at midnight on September 24, 2010 for failure to pay the seven and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6639915	2003-10-28	09287302	1999-04-07	FORT-008500

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input checked="" type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Michael A. DeSanctis/	Date (YYYY-MM-DD)	2012-02-29
Name	Michael A. DeSanctis	Registration Number	39957
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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P.O. Box 1450
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In re Patent No. 6639915 :
Issue Date: October 28, 2003 :
Application No. 09287302 :DECISION GRANTING PETITION
Filed: April 7, 1999 :UNDER 37 CFR 1.378(c)
Attorney Docket No. LARA-004 :

This is a decision on the electronic petition, filed February 29, 2012, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 29, 2012. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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IVAR M. KAARDAL
KAARDAL & ASSOCIATES, P.C.
3500 SOUTH FIRST AVENUE CIRCLE
SUITE 250
SIOUX FALLS SD 57105-5807

MAILED

NOV 21 2011

OFFICE OF PETITIONS

In re Patent No. 6,296,294	:	
Issued: October 2, 2001	:	
Application No. 09/288,136	:	ON PETITION
Filed: April 8, 1999	:	
Attorney Docket No. 98-1405	:	

This is a decision on the petition under 37 CFR 1.378(b), filed October 4, 2011, to reinstate the above-cited patent.

The petition is **dismissed without prejudice**.

Petitioner is allowed **TWO MONTHS** from the mailing date of this decision to provide an appropriate response. Extensions of time under 37 CFR 1.136(a) are NOT available. If no response is received, the monies received on October 4, 2011 for payment of the 7.5-year maintenance and surcharge for the petition will be refunded and no further consideration of the matter will be undertaken.

The patent issued October 2, 2011. The 7.5 year maintenance fee could have been paid from October 2, 2008, through April 2, 2009, or with a surcharge, as authorized by 37 CFR 1.20(h), during the period April 3, 2009, until midnight October 2, 2009. The maintenance fee was not timely received. Accordingly, the patent expired at midnight on October 2, 2009.

It is noted that the instant petition is signed by Thomas Russell, who is neither an inventor on this patent or a registered agent with the USPTO. Further USPTO records do not indicate that Mr. Russell is an assignee of the patent (though the statement and "Assignment of Patent" petitioner provided with the petition seems to indicate that is Mr. Thomas' relationship to the patent.) The maintenance fee will only be accepted from the inventors on the patent, a registered patent agent, or the assignee empowered under 37 CFR 3.73(b). Petitioner is advised that any renewed petition must be either signed by both of the named inventors on the patent, a registered agent, or the assignee for patent. If the assignee signs the petition, the petition must be accompanied by a certificate under 37 CFR 3.73(b) empowering the assignee to take action on the patent. Such is enclosed for petitioner's convenience.

The renewed petition should be accompanied by the completed form PTO/SB/96. Further, petitioner should have the assignment document recorded with the Assignment Branch and may contact the Assignment Branch for more guidance on how to record the assignment document.

In re Patent No. 6,296,294

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patent
Mail Stop Petitions
Box 1450
Alexandria, VA 22313-1460

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petition Attorney
Office of Petitions

Enclosed: Form PTO/SB/96

Cc:
Thomas Russell
3047 Wendmead Place
Marietta, GA 30062

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: _____

Application No./Patent No.: _____ Filed/Issue Date: _____

Titled: _____

_____, a _____
(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☐ the assignee of the entire right, title, and interest in;
2. ☐ an assignee of less than the entire right, title, and interest in
(The extent (by percentage) of its ownership interest is _____ %); or
3. ☐ the assignee of an undivided interest in the entirety of (a complete assignment from one of the joint inventors was made)

the patent application/patent identified above, by virtue of either:

- A. ☐ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy therefore is attached.

OR

- B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

1. From: _____ To: _____

The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

2. From: _____ To: _____

The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

3. From: _____ To: _____

The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

- ☐ Additional documents in the chain of title are listed on a supplemental sheet(s).

☒ As required by 37 CFR 3.73(b)(1)(i), the documentary evidence of the chain of title from the original owner to the assignee was, or concurrently is being, submitted for recordation pursuant to 37 CFR 3.11.

[NOTE: A separate copy (i.e., a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

Signature_____
Date_____
Printed or Typed Name_____
Title

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6621981	2003-09-16	09288142	1999-04-08	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input checked="" type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Marvin Motsenbocker/	Date (YYYY-MM-DD)	2012-03-23
Name	Marvin A. Motsenbocker	Registration Number	36614
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6621981 :
Issue Date: September 16, 2003 :
Application No. 09288142 :DECISION GRANTING PETITION
Filed: April 8, 1999 :UNDER 37 CFR 1.378(c)
Attorney Docket No. P63480US0 :

This is a decision on the electronic petition, filed March 23, 2012, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 23, 2012. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



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P.O. Box 1450
Alexandria, VA 22313-1450
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MARK D. LAVENDER
ST: JUDE MEDICAL,
ATRIAL FIBRILLATION DIVISION, INC.
ONE ST. JUDE MEDICAL DRIVE
ST. PAUL, MN 55117-9913

MAILED

JAN 19 2012

OFFICE OF PETITIONS

In re Patent No. 5,971,968
Issued: October 26, 1999
Application No. 09/288,744
Filed: April 8, 1999
Attorney Docket No: 0F-046600US

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ON PETITION

This is a decision regarding your request under 37 CFR 1.28. for acceptance of a fee deficiency submission filed December 23, 2011.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc., 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission in the amount of \$1700, under 37 CFR 1.28, is hereby accepted and the petition is **GRANTED**.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3282.

/Patricia Faison-Ball/

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6411418	2002-06-25	09289342	1999-04-09	IL-9969

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input checked="" type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/James S. Tak, #46367/	Date (YYYY-MM-DD)	2011-07-01
Name	James S. Tak	Registration Number	46367
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

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1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
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P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6411418 :
Issue Date: June 25, 2002 :
Application No. 09289342 :DECISION GRANTING PETITION
Filed: April 9, 1999 :UNDER 37 CFR 1.378(c)
Attorney Docket No. B-3633 :

This is a decision on the electronic petition, filed July 1, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 1, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 08/28/10

TO SPE OF : ART UNIT 3691

SUBJECT : Request for Certificate of Correction for Appl. No.: 09289550 Patent No.: 7212999

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

**Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580**

You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome

Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

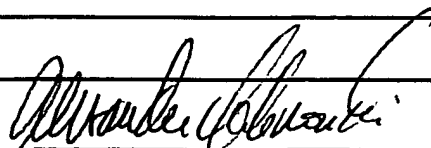
☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

Comments: _____



8/31/2010



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patent No. : 7,835,989 B1
Ser. No. : 09/289,957
Inventor(s) : John S. Hendricks, et. al.
Issued :
Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing *incorrect or erroneous* assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 (*see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481*). This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request is hereby denied.

Page 2, of the title page, item 56, under Other Publications the word, purported to be in 1st column line 13th cannot be found in the printed patent.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

- A. the processing fee set forth in 37 CFR 1.17(i) (currently \$130);
- B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
- C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:

**Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450**

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently \$100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

Eva James
For Mary Diggs
Decisions & Certificates
of Correction Branch
(571) 272-3422 or 703- 756 -1580

Juliana Haydoutova
Arent Fox LLP
1050 Connecticut Ave. NW
Washington, DC 20036

ej



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6404810 :
Issue Date: June 11, 2002 :
Application No. 09290128 :DECISION GRANTING PETITION
Filed: April 12, 1999 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 30019.86US01 :

This is a decision on the electronic petition, filed October 18, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 18, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6404810	2002-06-11	09290128	1999-04-12	30019.86US01

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input checked="" type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Kendal M. Sheets/	Date (YYYY-MM-DD)	2010-10-15
Name	Kendal M. Sheets	Registration Number	47077
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

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The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
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5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
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Medlin & Carroll LLP
101 Howard Street Suite 350
San Francisco CA 94105

MAILED

MAR 31 2011

OFFICE OF PETITIONS

In re Patent No. 7,696,148	:	
Issue Date: April 13, 2010	:	
Application No. 09/291,656	:	DECISION ON PETITION
Filed: March 3, 1999	:	
Attorney Docket No. UM-03662	:	

This is a decision on the Renewed Request For Certificate Of Correction Of Patent For Applicants Mistake (37 CFR §1.323), filed February 10, 2011, which is being treated as a Petition Under 37 CFR §3.81(b), to identify the correct assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition under 37 CFR §3.81(b) is **GRANTED**.

The petition decision mailed July 13, 2010, dismissed the 37 CFR §3.81(b) petition filed May 27, 2010, because of the information USPTO revealed on the assignment documents recorded at Reel: 012665, Frame: 0809 on March 12, 2002. After further review, the assignment documents show that *The Regents Of The University Of Michigan, Ann Arbor, MI (US)* is the assignee. Therefore, the renewed petition is granted.

Inquiries related this communication should be directed to the undersigned at (571)272-3213.

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (703)756-1814.

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,696,148.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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**EDWARDS LIFESCIENCES CORPORATION
LEGAL DEPARTMENT
ONE EDWARDS WAY
IRVINE CA 92614**

MAILED
JUL 14 2011
OFFICE OF PETITIONS

In re Patent No. 6,228,071 :
Issued: May 8, 2001 :
Application No. 09/293,592 : **ON PETITION**
Filed: April 16, 1999 :
Attorney Docket No. CSS-6042 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed June 22, 2011.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

It is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent regarding this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions



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Commissioner for Patents
United States Patent and Trademark Office
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BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

MAILED

OCT 04 2011

OFFICE OF PETITIONS

In re Patent No. 6,316,291 :
Issue Date: November 13, 2001 :
Application No. 09/293,838 :
Filed: April 19, 1999 :
Attorney Docket No. **011608-051** :

ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed September 16, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

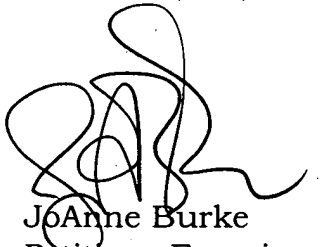
This patent expired at midnight November 13, 2009, for failure to pay the 7½ year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney documents must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

A handwritten signature in black ink, appearing to read 'JAB', is written over the printed name 'JoAnne Burke'.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Jayle G. Heybl
2815 Townsgate Road, Suite 215
Westlake Village, CA 91361



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ANDRE MCCARTER
5333 BALBOA BLVD #127
ENCINO CA 91316

MAILED

APR 13 2011

OFFICE OF PETITIONS

In re Patent No. 6,049,910 :
Issue Date: April 18, 2000 :
Application No. 09/294,528 : DECISION ON PETITION
Filed: April 19, 1999 :
Title: Athletic Training Glove :
:

This is a decision on the petition to accept the unavoidably delayed payment of the maintenance fee under 37 CFR 1.378(b), filed February 28, 2011.

The petition is **DISMISSED**.

The above-identified patent issued on April 18, 2000. Therefore, the window for paying the second maintenance fee extended from April 18, 2007 to October 18, 2007 without surcharge, and from October 19, 2007 to April 18, 2008, with surcharge. No maintenance fee and surcharge having been received in full on or before April 18, 2008, the patent expired on April 19, 2008. Patentee filed a petition under 37 CFR 1.377 on June 8, 2008, explaining that he did timely file the maintenance fee on April 16, 2008, but that it was \$30 deficient. The petition was dismissed in a decision mailed on March 20, 2009, explaining that patentee did not submit the \$200 fee required for the petition, and also explaining that a petition under 37 CFR 1.377 would need to demonstrate that the maintenance fee was timely paid **in full**. The two year deadline for filing a petition to accept the unintentionally delayed payment of the maintenance fee expired on April 18, 2010. Patentee filed a letter on April 15, 2010,

requesting a "grace period" to allow him to file a petition to accept the unintentionally delayed payment of the maintenance fee beyond two years after expiration. However, as the two year deadline is set by statute, it can not be waived. Accordingly, patentee's request was dismissed in a decision mailed on July 19, 2010.

Relevant Statutes and Regulations

35 U.S.C. § 41(c)(1) states that:

The Commissioner may accept the delayed payment of any maintenance fee required ... after the six month grace period if the delay is shown to the satisfaction of the Commissioner to have been unavoidable.

37 CFR 1.378(b) provides that:

Any petition to accept an unavoidably delayed payment of a maintenance fee must include:

- (1) The required maintenance fee set forth in §1.20(e) through (g);
- (2) The surcharge set forth in §1.20(i)(1); and
- (3) A showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

§ 1.378(b)(3) is at issue in this case. Acceptance of a late maintenance fee under the unavoidable delay standard is considered under the same standard for reviving an abandoned application under 35 U.S.C. § 133. This is a very stringent standard. Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

The word 'unavoidable' ... is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful

men in relation to their most important business. In addition, decisions are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith, 671 F.2d at 538, 213 U.S.P.Q. at 982. Nonetheless, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines, 673 F. Supp. at 316-17, 5 U.S.P.Q.2d at 1131-32 (N.D. Ind. 1987).

Moreover, delay resulting from the lack of knowledge or improper application of the patent statutes, rules of practice or the Manual of Patent Examining Procedure, however, does not constitute "unavoidable" delay.

35 U.S.C. § 41(c)(1) does not require an affirmative finding that the delay was avoidable, but only an explanation as to why the petitioner has failed to carry his or her burden to establish that the delay was unavoidable. Cf. Commissariat A. L'Energie Atomique v. Watson, 274 F.2d 594, 597, 124 USPQ 126, 128 (D.C. Cir. 1960) (35 U.S.C. § 133 does not require the Commissioner to affirmatively find that the delay was avoidable, but only to explain why the applicant's petition was unavailing). Petitioner is reminded that it is the patentee's burden under the statutes and regulations to make a showing to the satisfaction of the Commissioner that the delay in payment of a maintenance fee is unavoidable. See Rydeen v. Quigg, 748 F. Supp. 900, 16 USPQ2d 1876 (D.D.C. 1990), aff'd 937 F.2d 623 (Fed. Cir. 1991), cert. denied, 502 U.S. 1075 (1992); Ray v. Lehman, 55 F. 3d 606, 608 - 609, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995).

Analysis

Petitioner has not demonstrated unavoidable delay within the meaning of 35 U.S.C. §41(c)(1) and 37 CFR 1.378(b).

Petitioner states that his late payment was unavoidable due to "injury disability and loss of work" prior to April 18, 2008, and being in "financial recovery mode" from 2008 into 2011.

When a petitioner asserts financial hardship, the Office needs to see copies of any bank records, tax returns, and W-2 forms for the period in question.¹ Here, the period in question is from the date the patent expired, April 19, 2008, up until the filing date of the instant petition, February 28, 2011. In addition,

¹ Petitioner is encouraged to redact any identifying information he would wish to remain confidential - social security number, bank account numbers, etc.

the Office requests that petitioner provide an accounting of his expenses throughout the period.

Furthermore, there is a discrepancy in the record. The record discloses that petitioner submitted a maintenance fee payment of \$1,180, that was \$30 short of the \$1,210 due at the time, on April 16, 2008. Now petitioner is asserting that due to financial hardship, he was unavoidably prevented from paying the maintenance fee on or before April 18, 2008. It is not clear then how petitioner was able to pay \$1,180 on April 16, 2008. Rather, it appears that petitioner made an unintentional mistake in not paying the correct maintenance fee amount on April 16, 2008. Petitioner would need to overcome this discrepancy to support a showing of unavoidable delay.

Conclusion

Any request for reconsideration of this decision must be filed within **TWO MONTHS** of the mailing date of this decision. Any such petition for reconsideration must be accompanied by the \$400 petition fee set forth in § 1.17(f). After decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner. Accordingly, on request for reconsideration, it is extremely important that petitioner supply **any** and **all** relevant information and documentation in order to meet his burden of showing unavoidable delay. This includes statements by all persons with direct knowledge of the cause of the delay, setting forth the facts as they know them.

If on request for reconsideration, the delayed payment of the maintenance fee is not accepted, then the \$1240 maintenance fee and the \$200 surcharge set forth in §1.20(i) are subject to refund following the decision on the petition for reconsideration, or after the expiration of the time for filing such a petition for reconsideration, if none is filed. (Petitioner may request a refund of the maintenance fee and surcharge by writing to the Mail Stop 16, Director of the USPTO, P.O. Box 1450, Alexandria VA 22313-1450). A copy of the last decision rendered should accompany the request for refund).

Further correspondence with respect to this matter should be addressed as follows:

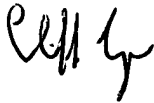
By mail: Mail Stop Petitions
 Commissioner for Patents
 P.O. Box 1450
 Alexandria VA 22313-1450

Patent No. 6,049,910

Page 5

By FAX: (571)273-8300
Attn: Office of Petitions

Telephone inquiries concerning this communication should be directed to the undersigned at 571-272-3207.

A handwritten signature in cursive script, appearing to read "Cliff Congo".

Cliff Congo
Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ANDRE MCCARTER
5333 BALBOA BLVD #127
ENCINO CA 91316

MAILED

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OFFICE OF PETITIONS

In re Patent No. 6,049,910 :
Issue Date: April 18, 2000 :
Application No. 09/294,528 : DECISION ON PETITION
Filed: April 19, 1999 :
Title: Athletic Training Glove :
:

This is a decision on the renewed petition to accept the unavavoidably delayed payment of the maintenance fee under 37 CFR 1.378(b), filed June 10, 2011.

The petition is **GRANTED**.

The above-identified patent issued on April 18, 2000. Therefore, the window for paying the second maintenance fee extended from April 18, 2007 to October 18, 2007 without surcharge, and from October 19, 2007 to April 18, 2008, with surcharge. No maintenance fee and surcharge having been received in full on or before April 18, 2008, the patent expired on April 19, 2008. Patentee filed a petition under 37 CFR 1.377 on June 8, 2008, explaining that he did timely file the maintenance fee on April 16, 2008, but that it was \$30 deficient. The petition was dismissed in a decision mailed on March 20, 2009, explaining that patentee did not submit the \$200 fee required for the petition, and also explaining that a petition under 37 CFR 1.377 would need to demonstrated that the maintenance fee was timely paid **in full**. The two year deadline for filing a petition to accept the unintentionally delayed payment of the maintenance fee expired on April 18, 2010. Patentee filed a letter on April 15, 2010,

requesting a "grace period" to allow him to file a petition to accept the unintentionally delayed payment of the maintenance fee beyond two years after expiration. However, as the two year deadline is set by statute, it can not be waived. Accordingly, patentee's request was dismissed in a decision mailed on July 19, 2010. Patentee filed a petition to accept the unavoidably delayed payment of the maintenance fee on February 28, 2011, asserting that he did not have the money to timely pay the maintenance fee. However, this petition was dismissed in a decision mailed on April 13, 2011.

Relevant Statutes and Regulations

35 U.S.C. § 41(c)(1) states that:

The Commissioner may accept the delayed payment of any maintenance fee required ... after the six month grace period if the delay is shown to the satisfaction of the Commissioner to have been unavoidable.

37 CFR 1.378(b) provides that:

Any petition to accept an unavoidably delayed payment of a maintenance fee must include:

- (1) The required maintenance fee set forth in §1.20(e) through (g);
- (2) The surcharge set forth in §1.20(i)(1); and
- (3) A showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

§ 1.378(b)(3) is at issue in this case. Acceptance of a late maintenance fee under the unavoidable delay standard is considered under the same standard for reviving an abandoned application under 35 U.S.C. § 133. This is a very stringent standard. Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

The word 'unavoidable' ... is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. In addition, decisions are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith, 671 F.2d at 538, 213 U.S.P.Q. at 982. Nonetheless, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines, 673 F. Supp. at 316-17, 5 U.S.P.Q.2d at 1131-32 (N.D. Ind. 1987).

Moreover, delay resulting from the lack of knowledge or improper application of the patent statutes, rules of practice or the Manual of Patent Examining Procedure, however, does not constitute "unavoidable" delay.

Renewed Petition

On renewed petition, petitioner now states that at the time he submitted the incorrect amount due for the maintenance fee on April 16, 2008, he was "not in a normal state of mind" because of his medical condition at the time. As such, petitioner asserts that was the reason he only submitted \$1,180 for the maintenance fee, when \$1210 was in fact due.

In support thereof, petitioner has supplied a letter from his treating physician, Gerald A.M. Finerman, MD. Dr. Finerman states that McCarter has had multiple orthopaedic surgeries since 2008, during which time he was taking strong narcotic medication for pain control. In addition, Dr. Finerman states that "[d]uring the time of his recovery, his decision making and reasoning may have been impaired."

Conclusion

The evidence submitted on renewed petition has been considered, and found to be persuasive.

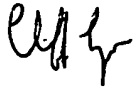
The instant patent is hereby reinstated as of the mailing date of this decision.

Patentee is reminded that the one year window for payment of the twelve year maintenance fee (currently \$2,365) opened on April 18, 2011, and closes on April 18, 2012. Payment of the maintenance fee from October 19, 2011 to April 18, 2012 will also require payment of the "late payment within 6 month" surcharge (currently \$75).

Patent No. 6,049,910

Page 4

Telephone inquiries concerning this communication should be directed to the undersigned at 571-272-3207.

A handwritten signature in black ink, appearing to read 'Cliff Congo', with a stylized flourish at the end.

Cliff Congo
Petitions Attorney
Office of Petitions



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ANDRE MCCARTER
5333 BALBOA BLVD #127
ENCINO CA 91316

MAILED
JAN 23 2012
OFFICE OF PETITIONS

In re Patent No. 6,049,910	:	
Issue Date: April 18, 2000	:	
Application No. 09/294,528	:	DECISION ON REFUND
Filed: April 19, 1999	:	REQUEST
Title: Athletic Training Glove	:	
	:	

This is a letter transmitted via facsimile on December 2, 2011, which is being treated as a request for a refund.

The request for a refund is **DISMISSED**.

The above-identified patent issued on April 18, 2000. Therefore, the window for paying the second maintenance fee (\$1,180) extended from April 18, 2007 to October 18, 2007 without surcharge, and from October 19, 2007 to April 18, 2008, with an additional \$65 surcharge (which, together with the maintenance fee, would have totaled \$1,245). No maintenance fee and surcharge having been received in full on or before April 18, 2008, the patent expired on April 19, 2008.

Patentee filed a petition under 37 CFR 1.377 on June 6, 2008, explaining that he did timely submit \$1,215 on April 16, 2008, but that it was \$30 deficient. The petition was dismissed in a decision mailed on March 20, 2009, explaining that patentee did not submit the \$200 fee required for the petition. The decision also noted that a petition under 37 CFR 1.377 would need to demonstrate that the maintenance fee was timely paid **in full**. The two year deadline for filing a petition to accept the unintentionally delayed payment of the maintenance fee expired on April 18, 2010. Patentee filed a letter on April 15, 2010, requesting a "grace period" to allow him to file a petition to

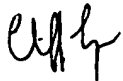
accept the unintentionally delayed payment of the maintenance fee beyond two years after expiration. However, as the two year deadline is set by statute, it can not be waived. Accordingly, Patentee's request was dismissed in a decision mailed on July 19, 2010. Patentee filed a petition to accept the unavoidably delayed payment of the maintenance fee on February 28, 2011, asserting that he did not have the money to timely pay the maintenance fee. However, this petition was dismissed in a decision mailed on April 13, 2011.

Lastly, Patentee filed a request for reconsideration on June 10, 2011, this time asserting that because he was on strong narcotic medication for pain control, his decision making and reasoning were impaired, and as a result, he did not submit the proper amount due for the maintenance fee and surcharge. Because petitioner's contention was supported by a note from his treating physician, the petition was granted in a decision mailed on November 14, 2011.

Now, Patentee Andre McCarter has filed the instant letter "to help determine if [he] is eligible for any refunds." Chief among Mr. McCarter's reasons is that past decisions on petition contained errors in the amount due for the maintenance fee and surcharge. For example, past decisions have stated that \$1,180 was received from Mr. McCarter on April 16, 2008, when they should have in fact stated that \$1,215 was received. The Office apologizes for any confusion caused to Mr. McCarter after the expiration of his patent. Regardless of these errors in the petition decisions, the fact remains that Mr. McCarter was \$30 deficient on his maintenance fee (and surcharge) submission on April 16, 2008, which caused the patent to expire on April 19, 2008. \$1,245 was due (\$1,180 maintenance fee, \$65 surcharge); Mr. McCarter submitted \$1215. That Mr. McCarter was \$30 deficient is not in dispute. The burden is on the Patentee to know the amounts due and the schedule for paying the maintenance fees on his patents.

In view thereof, the request for a refund of the \$700 unavoidable petition surcharge is dismissed.

Telephone inquiries concerning this communication should be directed to the undersigned at 571-272-3207.



Cliff Congo
Petitions Attorney
Office of Petitions

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,358,244	2002-03-19	09/294,566	1999-04-20	0063/1628-US1

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|---------------------------------|-----|--------|
| <input type="radio"/> 3 ½ year | | (1551) |
| <input type="radio"/> 7 ½ year | | (1552) |
| <input type="radio"/> 11 ½ year | | (1553) |

Small Entity

- | | Fee | Code |
|---|-----|--------|
| <input type="radio"/> 3 ½ year | | (2551) |
| <input checked="" type="radio"/> 7 ½ year | | (2552) |
| <input type="radio"/> 11 ½ year | | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/david leason/	Date (YYYY-MM-DD)	2010-08-05
Name	David Leason	Registration Number	36195
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6358244 :
Issue Date: March 19, 2002 :
Application No. 09294566 :DECISION GRANTING PETITION
Filed: April 20, 1999 :UNDER 37 CFR 1.378(c)
Attorney Docket No. P/3272-12 :

This is a decision on the electronic petition, filed August 5, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 5, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

WILLIAM E HEIN
P O BOX 335
LOVELAND CO 80539

MAILED

APR 06 2011

OFFICE OF PETITIONS

In re Patent No. 6,192,744 :
Issue Date: February 27, 2001 :
Application No. 09/295,637 :
Filed: April 20, 1999 :
Attorney Docket No. **428** :

ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed February 28, 2011¹, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired at midnight February 27, 2009, for failure to pay the 7½ year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

¹ This includes a certificate of mailing or certificate of February 24, 2011.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6492963	2002-12-10	09295891	1999-04-21	DH001US1

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input checked="" type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/mwresq/	Date (YYYY-MM-DD)	2011-10-04
Name	Merle W Richman	Registration Number	38282
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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In re Patent No. 6492963 :
Issue Date: December 10, 2002 :
Application No. 09295891 :DECISION GRANTING PETITION
Filed: April 21, 1999 :UNDER 37 CFR 1.378(c)
Attorney Docket No. DJH-9801 :

This is a decision on the electronic petition, filed October 5, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 5, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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In re Patent No.	6434738	:
Issue Date:	August 13, 2002	:
Application No.	09296341	:DECISION GRANTING PETITION
Filed:	April 22, 1999	:UNDER 37 CFR 1.378(c)
Attorney Docket No.	10992/1	:

This is a decision on the electronic petition, filed December 7, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 7, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6434738	2002-08-13	09296341	1999-04-22	10992/1

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input checked="" type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Michelle Carniaux/	Date (YYYY-MM-DD)	2010-12-07
Name	Michelle Carniaux	Registration Number	36098
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

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6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6024396	2000-02-15	09296355	1999-04-22	D0447-30U1

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|--|-----|--------|
| <input type="radio"/> 3 ½ year | | (1551) |
| <input type="radio"/> 7 ½ year | | (1552) |
| <input checked="" type="radio"/> 11 ½ year | | (1553) |

Small Entity

- | | Fee | Code |
|---------------------------------|-----|--------|
| <input type="radio"/> 3 ½ year | | (2551) |
| <input type="radio"/> 7 ½ year | | (2552) |
| <input type="radio"/> 11 ½ year | | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

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Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/LyndaLCalderone/	Date (YYYY-MM-DD)	2012-02-22
Name	Lynda L. Calderone	Registration Number	35837
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

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4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
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In re Patent No. 6024396 :
Issue Date: February 15, 2000 :
Application No. 09296355 :DECISION GRANTING PETITION
Filed: April 22, 1999 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 7719-077 :

This is a decision on the electronic petition, filed February 22, 2012, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 11.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 22, 2012. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



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DAVID NEWMAN CHARTERED
CENTENNIAL SQUARE
P.O. BOX 2728
LA PLATA, MD 20646-2728

MAILED

SEP 19 2011

OFFICE OF PETITIONS

In re Patent No. 6,349,110 :
Issue Date: February 19, 2002 :
Application No. 09/296,508 :
Filed: April 22, 1999 :
Patentee(s): Sorin Davidovici, et. al. :

ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed on August 22, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent.

Since petitioner has demonstrated to the satisfaction of the Commissioner that the delay in timely paying the maintenance fee was unintentional, the petition under 37 CFR 1.378(c) is hereby **GRANTED**.

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

A courtesy copy of this decision is being mailed to the address given in the present petition.

This patented file is being forwarded to Files Repository.

Telephone inquiries should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Mimi Hsu
198 Brighton Avenue
Long Branch, NJ 07740



UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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ST. ONGE STEWARD JOHNSTON & REENS, LLC
986 BEDFORD STREET
STAMFORD CT 06905-5619

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SEP 08 2011

OFFICE OF PETITIONS

In re Patent No. 6,594,635	:	
Issue Date: July 15, 2003	:	
Application No. 09/296,573	:	NOTICE
Filed: April 22, 1999	:	
Attorney Docket No. 04697-P0002A	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions



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Commissioner for Patents
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**BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747**

MAILED

MAY 11 2011

OFFICE OF PETITIONS

In re Patent No. 6,455,233	:	
Issue Date: September 24, 2002	:	ON PETITION
Application No. 09/297,577	:	
Filed: July 6, 1999	:	
Atty. Docket No.: 1781-166P	:	

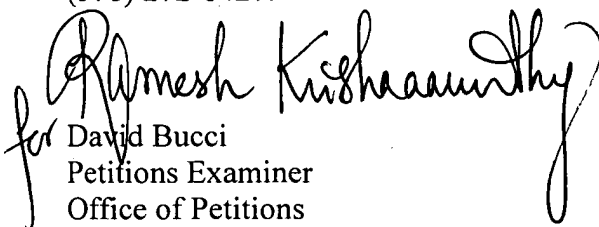
This is a decision on the petition under 37 CFR 1.378(c), filed April 21, 2011, to accept the unintentionally delayed payment of a maintenance fee from the above-identified application.

The petition is **GRANTED**.

The patent expired on September 25, 2010 for failure to pay the seven and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mailing date of this decision.

Telephone inquiries concerning this decision should be directed to Robert DeWitty at (571) 272-8427.

for 
David Bucci
Petitions Examiner
Office of Petitions



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DAVID M. QUINLAN, PC
32 NASSAU STREET
SUITE 300
PRINCETON NJ 08542

MAILED
FEB 10 2012
OFFICE OF PETITIONS

In re Patent No. 6,529,603 :
Issue Date: March 4, 2003 :
Application No. 09/298,304 :
Filed: April 23, 1999 :
Attorney Docket No. 13400.1003 :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 on November 30, 2011.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,315,138	2001-11-13	09/299,803	1999-04-26	dyson3

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|---------------------------------|-----|--------|
| <input type="radio"/> 3 ½ year | | (1551) |
| <input type="radio"/> 7 ½ year | | (1552) |
| <input type="radio"/> 11 ½ year | | (1553) |

Small Entity

- | | Fee | Code |
|---|-----|--------|
| <input type="radio"/> 3 ½ year | | (2551) |
| <input checked="" type="radio"/> 7 ½ year | | (2552) |
| <input type="radio"/> 11 ½ year | | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/jrr/	Date (YYYY-MM-DD)	2011-03-30
Name	John R. Ross, III	Registration Number	43060
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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In re Patent No. 6315138 :
Issue Date: November 13, 2001 :
Application No. 09299803 :DECISION GRANTING PETITION
Filed: April 26, 1999 :UNDER 37 CFR 1.378(c)
Attorney Docket No. :

This is a decision on the electronic petition, filed March 30, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 30, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



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SEP 28 2011
OFFICE OF PETITIONS

COZEN O'CONNOR
277 PARK AVENUE
20TH FLOOR
NEW YORK NY 10172

In re
Marsetti, et al.
Application No. 09/299,899
Filed: April 27, 1999
Patent No. 6,260,245
Issued: July 17, 2001

DECISION

This is a decision on the fee deficiency submission under 37 CFR 1.28(c), filed September 7, 2011.

The fee deficiency submission under 37 CFR 1.28 of \$1240 for the 7.5 year maintenance fee is hereby accepted.

Deposit Account No. 50-3111 has been charged \$1240, as authorized.

The change of status to large entity has been entered.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions



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THOMAS NEAVITT
AMTECH CORP.
3120 VENTURE DRIVE
LAS VEGAS NV 89101

MAILED

SEP 23 2011

OFFICE OF PETITIONS

In re Patent No. 6,273,441 :
Issue Date: August 14, 2001 :
Application No. 09/300,371 :
Filed: April 27, 1999 :
For: VEHICLE SUSPENSION STABILIZING :
DEVICE :

ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed August 8, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on August 15, 2009 for failure to pay the second maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney in the above application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Application No. 09/300,371
Patent No. 6,273,441

-2-

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

Cc:

JAMES R. LANE
106 GARDEN TRAIL
STOCKBRIDGE, GA 30281



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PARKHURST WENDEL & BURR
1421 PRINCE STREET
SUITE 210
ALEXANDRIA VA 22314

MAILED

JUL 05 2011

OFFICE OF PETITIONS

In re Patent No. 6,102,571
Issue Date: August 15, 2000
Application No. 09/301,549
Filed: April 29, 1999
Attorney Docket No. ISHP:022

NOTICE

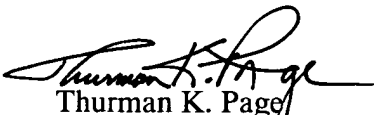
This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to Diane Goodwyn at (571) 272-6735.


Thurman K. Page
Petitions Examiner
Office of Petitions



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ATTN: IP DEPARTMENT DOCKET CLERK
200 PUBLIC SQUARE
SUITE 2300
CLEVELAND OH 44114-2378

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JAN 24 2012
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In re
Marohart, et al.
Application No. 09/302,195
Filed: April 29, 1999
Patent No. 6,759,388
Issued: July 6, 2004

DECISION

This is a decision on the fee deficiency submission under 37 CFR 1.28(c), filed December 22, 2011.

The fee deficiency submission under 37 CFR 1.28 of \$665 for the 3.5 year maintenance fee is hereby accepted.

The change of status to large entity has been entered.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions



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In re Patent No. 6255296 :
Issue Date: July 3, 2001 :
Application No. 09302690 :DECISION GRANTING PETITION
Filed: April 30, 1999 :UNDER 37 CFR 1.378(c)
Attorney Docket No. D-00004-001 :

This is a decision on the electronic petition, filed August 6, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 6, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6255296	2001-07-03	09302690	1999-04-30	27512-3000US01

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input checked="" type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Brick G. Power/	Date (YYYY-MM-DD)	2010-08-06
Name	Brick G. Power	Registration Number	38581
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : September 28, 2011

TO SPE OF : ART UNIT 1647

SUBJECT : Request for Certificate of Correction for Appl. No.: 09303216 Patent No.: 7438920

CofC mailroom date: 8-15-11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

**Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580**

Note: _____

Magdalene Talley

Certificates of Correction Branch

571-272-0423 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

Comments: _____


SPE

1647/49
Art/Unit



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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

STEVEN B STEIN
STEIN & STEIN
164 ROUTE 10 WEST
SUCCASUNNA, NJ 07876

MAILED

MAR 21 2011

OFFICE OF PETITIONS

In re Patent No. 6,364,141 :
Issue Date: April 2, 2002 :
Application No. 09/303,530 :
Filed: April 30, 1999 :
Patentee(s) Glenn Alan Ehrgott :

ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed February 4, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent.


The petition is **GRANTED**.

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.


Irvin Dingle
Petitions Examiner
Office of Petitions

cc: R. Tracy Crump
P.O. Box 604
New Carlisle, IN 46552



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TRASKBRITT P. C.
P.O. BOX 2550
SALT LAKE CITY UT 84110

MAILED

SEP 14 2010

In re Application of
Tony M. PEARCE
Application No. 09/303,979
Filed: May 3, 1999
Attorney Docket No. 5039P

: OFFICE OF PETITIONS
:
: DECISION ON PETITION
:
:

This is a decision on the petition under 37 CFR 1.59(b), filed February 26, 2010, to expunge information from the above identified application.

The petition is DISMISSED.

Petitioner requests that a document filed, be expunged from the record. The petitioner identifies the material to be expunged as being at column 1, and column 48 of the issued patent 6,413,458.

The petition is deficient and has not been decided on the merits because the fee, required under 37 CFR 1.17(g), of \$200.00 has not been submitted.

Telephone inquiries concerning this communication should be directed to the undersigned at 571-272-0602.

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: DANIEL P. MCCARTHY
2053 PINETREE VILLAGE
BRIGHTON, UTAH 84121

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6219876	2001-04-24	09304051	1999-05-04	13801/16

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|---------------------------------|-----|--------|
| <input type="radio"/> 3 ½ year | | (1551) |
| <input type="radio"/> 7 ½ year | | (1552) |
| <input type="radio"/> 11 ½ year | | (1553) |

Small Entity

- | | Fee | Code |
|---|-----|--------|
| <input type="radio"/> 3 ½ year | | (2551) |
| <input checked="" type="radio"/> 7 ½ year | | (2552) |
| <input type="radio"/> 11 ½ year | | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Shawn O'Dowd/	Date (YYYY-MM-DD)	2010-10-27
Name	Shawn O'Dowd	Registration Number	34687
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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In re Patent No. 6219876
Issue Date: April 24, 2001
Application No. 09304051
Filed: May 4, 1999
Attorney Docket No. 10551/16

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed October 27, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 27, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



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ACCENTURE CHICAGO 28164
BRINKS HOFER GILSON & LIONE
P O BOX 10395
CHICAGO IL 60610

MAILED
FEB 22 2011
OFFICE OF PETITIONS

In re Application of :
George V. Guyan, et al. :
Application No. 09/305,146 : **DECISION GRANTING PETITION**
Filed: May 4, 1999 : **UNDER 37 CFR 1.313(c)(2)**
Attorney Docket No. 10022/252 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 18, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 22, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2156 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.



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ACCENTURE CHICAGO 28164
BRINKS HOFER GILSON & LIONE
P O BOX 10395
CHICAGO IL 60610

MAILED

JUN 10 2011

OFFICE OF PETITIONS

In re Application
George V. Guyan et al.
Application No. 09/305,146
Filed: May 4, 1999
Attorney Docket No. **10022/252**

:
:
: **DECISION ON APPLICATION**
: **FOR PATENT TERM ADJUSTMENT**
:

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b) filed November 22, 2010. Applicant requests that the determination of patent term adjustment be corrected from 1118 days to 1141 days.

The application for patent term adjustment is **GRANTED** to the extent indicated herein.

On October 19, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 1118 days. The instant application for patent term adjustment was timely filed¹ on or before payment of the issue fee.

Applicants argue that the Patent Office erroneously assigned a filing date of January 9, 2003 to the Request for Continued Examination (RCE) filed on October 7, 2002 and as a result, a period of adjustment pursuant to 37 C.F.R. § 1.703(a)(3) should be increased by 39 days.

A review of the application history reveals that applicants are correct. The Office incorrectly entered the date of receipt of the RCE in the PTA Calculations as January 9, 2003 instead of October 7, 2002. Thus, the date of October 7, 2002, not January 9, 2003, should have been used for the purposes of calculating patent term adjustment.

In view thereof, in response to the Office Action mailed May 6, 2002, a delay of 62 days on the part of Applicants should be calculated for the period from August 6, 2002 to October 7, 2002, pursuant to 37 CFR 1.704(b). Thus 156 days will be removed and 62 days will be entered. As well, for the period October 7, 2002 to March 18, 2003, when the non-Final Office Action was mailed, a period of 39 days has been entered for Examination delay pursuant to 37 CFR 1.702.(a)(2).

¹ PALM records indicate that the issue fee was paid on November 22, 2010.

Applicants argue also that the after the filing of a response on June 19, 2003, not June 18, 2003, to a non-Final Office Action mailed March 18, 2003, the period of adjustment pursuant to 37 C.F.R. § 1.703(a)(2) is the number of days in the period beginning on the day ("the four month date") after that date that is four months after the date a reply in compliance with 37 CFR § 1.111 was filed and ending on the date of mailing of either an action under 35 U.S.C. § 132, or a notice of allowance under 35 U.S.C. § 151, whichever comes first. Applicants argue the four month date should have been October 19, 2003 not October 18, 2003 as calculated by the Office and as such, the period of delay should be 25 days and not 26 days. Thus 26 days is being removed and 25 days is being entered for the delay pursuant to 37 CFR 1.702(a)(2).

Applicants argue that the Patent Office has calculated two hundred forty eight (248) days of delay for failing to mail the Examiner's Answer by March 13, 2007 and that instead, there should be a delay of one hundred thirty nine (139) days on the part of the Patent Office since the delay is incorrectly based on the July 24, 2006 filing of the non-compliant Appeal Brief. Thus, the Patent Office has calculated 109 days of too much delay on its part regarding this matter.

There is no calculation of 248 days in the record and thus applicants' argument is not supported. However, a review of the record reveals calculations for a 1140 day period of Office delay, beginning on April 27, 2006 with the filing of the Notice of Appeal and ending on June 9, 2009 and, a 2 day period of delay accorded for Office delay from July 28, 2006 to July 30, 2006 has been entered. The Office erred in according both 1140 days of adjustment for Office delay in issuing a Board decision, pursuant to 37 CFR 1.703(e) and 2 days of adjustment for Office delay in issuing an Examiner's answer, pursuant to 37 CFR 1.703(a)(3) 2007. This period totally overlaps with the Office delay in issuing the Board of Patent Appeals and Interferences decision, which begins on April 27, 2006 and ends on June 9, 2009. Accordingly, only a period of adjustment of 1140 days should have been entered. The period of adjustment of 2 days is being removed.

Thus the patent term adjustment at the time the Notice of Allowance was mailed was 1002 days (96 "A delay" days + 1140 "C delay" days - 234 Applicant delay days), not 1141 days.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is ONE THOUSAND TWO (1002) days.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at

the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

A handwritten signature in black ink, reading "Patricia Faison-Ball". The signature is written in a cursive, flowing style with a large initial 'P'.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of Revised PALM Screen



Patent Term Adjustments



PTA/PTE Information

Patent Term Adjustment

Patent Term Extension

Application Number*: 09305146

Explanation of PTA Calculation

Explanation of PTE Calculation

PTA Calculations for Application: 09305146

Application Filing Date	05/04/1999	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	1200
A Delays	60	PTO Manual Adjustment	130
B Delays	0	Applicant Delay (APPL)	328
C Delays	1140	Total PTA (days)	1002

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
235	06/09/2011		P028	Adjustment of PTA Calculation by PTO		62	0
234	06/09/2011		P028	Adjustment of PTA Calculation by PTO	156		0
233	06/09/2011		P028	Adjustment of PTA Calculation by PTO	39		0
232	06/09/2011		P028	Adjustment of PTA Calculation by PTO		2	0
231	06/09/2011		P028	Adjustment of PTA Calculation by PTO	25		0
230	06/09/2011		P028	Adjustment of PTA Calculation by PTO		26	0
206	03/07/2011		MN/=	Mail Notice of Allowance			0
205	03/04/2011		IREV	Issue Revision Completed			0
204	03/04/2011		DVER	Document Verification			0
203	03/04/2011		N/=	Notice of Allowance Data Verification Completed			0
202	03/02/2011		CNTA	Allowability Notice			0
197	02/28/2011		ABN9	Disposal for a RCE / CPA / R129			0
196	02/22/2011		MP006	Mail-Record Petition Decision of Granted to Withdraw from Issue			0
195	02/22/2011		P006	Record Petition Decision of Granted to Withdraw from Issue			0
193	02/22/2011		TCPB	Printer Rush- No mailing			0
201	02/18/2011		IDSC	Information Disclosure Statement considered			0
200	02/18/2011		RCAP	Reference capture on IDS			0
199	02/18/2011		M844	Information Disclosure Statement (IDS) Filed			0
198	02/18/2011		RCEX	Request for Continued Examination (RCE)			0
194	02/18/2011		PET.	Petition Entered			0
192	02/18/2011		WIDS	Information Disclosure Statement (IDS) Filed			0
191	02/18/2011		BRCE	Workflow - Request for RCE - Begin			0
190	11/24/2010		PILS	Application Is Considered Ready for Issue			0
189	11/22/2010		N084	Issue Fee Payment Verified			0
188	11/22/2010		PET2	Petition Entered			0
187	11/22/2010		IFEE	Issue Fee Payment Received			0
186	10/22/2010		EIDC	Export to Initial Data Capture			0
185	10/19/2010		MN/=	Mail Notice of Allowance			0
184	10/19/2010		IREV	Issue Revision Completed			0
183	10/19/2010		DVER	Document Verification			0
182	10/19/2010		N/=	Notice of Allowance Data Verification Completed			0
181	10/19/2010		CNTA	Allowability Notice			0
172	10/15/2010		ABN9	Disposal for a RCE / CPA / R129			0
177	10/14/2010		IDSC	Information Disclosure Statement considered			0
176	10/14/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
175	10/14/2010		RCAP	Reference capture on IDS			0
174	10/14/2010		M844	Information Disclosure Statement (IDS) Filed			0
173	10/14/2010		RCEX	Request for Continued Examination (RCE)			0
171	10/14/2010		BRCE	Workflow - Request for RCE - Begin			0
170	07/20/2010		EIDC	Export to Initial Data Capture			0
169	07/15/2010		MN/=	Mail Notice of Allowance			0
168	07/15/2010		IREV	Issue Revision Completed			0
167	07/15/2010		DVER	Document Verification			0
166	07/14/2010		N/=	Notice of Allowance Data Verification Completed			0
165	07/14/2010		CNTA	Allowability Notice			0
159	07/08/2010		ABN9	Disposal for a RCE / CPA / R129			0
164	07/01/2010		IDSC	Information Disclosure Statement considered			0
163	07/01/2010		IDSC	Information Disclosure Statement considered			0
162	07/01/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
161	07/01/2010		M844	Information Disclosure Statement (IDS) Filed			0
160	07/01/2010		RCEX	Request for Continued Examination (RCE)			0
158	07/01/2010		WIDS	Information Disclosure Statement (IDS) Filed			0

157	07/01/2010	BRCE	Workflow - Request for RCE - Begin	0
156	04/05/2010	EIDC	Export to Initial Data Capture	0
155	04/02/2010	MN/ =.	Mail Notice of Allowance	0
154	03/12/2010	N/ =.	Notice of Allowance Data Verification Completed	0
153	03/08/2010	IREV	Issue Revision Completed	0
152	03/08/2010	DVER	Document Verification	0
151	03/08/2010	CNTA	Allowability Notice	0
146	03/01/2010	ABN9	Disposal for a RCE / CPA / R129	0
150	02/02/2010	IDSC	Information Disclosure Statement considered	0
149	02/02/2010	RCAP	Reference capture on IDS	0
148	02/02/2010	M844	Information Disclosure Statement (IDS) Filed	0
147	02/02/2010	RCEX	Request for Continued Examination (RCE)	0
144	02/02/2010	WIDS	Information Disclosure Statement (IDS) Filed	0
143	02/02/2010	BRCE	Workflow - Request for RCE - Begin	0
142	11/18/2009	FIDC	Finished Initial Data Capture	0
141	11/06/2009	EIDC	Export to Initial Data Capture	0
140	11/03/2009	MN/ =.	Mail Notice of Allowance	0
139	11/02/2009	IREV	Issue Revision Completed	0
138	11/02/2009	DVER	Document Verification	0
137	10/30/2009	N/ =.	Notice of Allowance Data Verification Completed	0
136	10/30/2009	CNTA	Allowability Notice	0
132	10/13/2009	FWDX	Date Forwarded to Examiner	0
130	10/13/2009	ABN9	Disposal for a RCE / CPA / R129	0
126	09/04/2009	EIDC	Export to Initial Data Capture	0
135	09/03/2009	IDSC	Information Disclosure Statement considered	0
134	09/03/2009	RCAP	Reference capture on IDS	0
133	09/03/2009	M844	Information Disclosure Statement (IDS) Filed	0
131	09/03/2009	RCEX	Request for Continued Examination (RCE)	0
128	09/03/2009	WIDS	Information Disclosure Statement (IDS) Filed	0
127	09/03/2009	BRCE	Workflow - Request for RCE - Begin	0
125	09/02/2009	MN/ =.	Mail Notice of Allowance	0
124	08/18/2009	IREV	Issue Revision Completed	0
123	08/18/2009	DVER	Document Verification	0
122	08/18/2009	N/ =.	Notice of Allowance Data Verification Completed	0
121	08/17/2009	CNTA	Allowability Notice	0
120	06/09/2009	04/27/2006 MAPDR	Mail BPAI Decision on Appeal - Reversed	1140 79
119	06/09/2009	APDR	BPAI Decision - Examiner Reversed	0
118	03/31/2009	DOCK	Case Docketed to Examiner in GAU	0
116	09/24/2008	AP_DK_M	Docketing Notice Mailed to Appellant	0
115	09/23/2008	APAS	Assignment of Appeal Number	0
113	08/20/2008	DOCK	Case Docketed to Examiner in GAU	0
112	08/14/2008	APWD	Appeal Awaiting BPAI Docketing	0
111	03/11/2008	DOCK	Case Docketed to Examiner in GAU	0
110	02/11/2008	TSSCOMP	IFW TSS Processing by Tech Center Complete	0
114	02/05/2008	IDSC	Information Disclosure Statement considered	0
109	02/05/2008	10/01/2007 EIDS.	Electronic Information Disclosure Statement	127 102
108	02/05/2008	WIDS	Information Disclosure Statement (IDS) Filed	0
107	12/17/2007	MRBNE	Mail Reply Brief Noted by Examiner	0
106	12/15/2007	RBNE	Reply Brief Noted by Examiner	0
103	10/18/2007	FWDX	Date Forwarded to Examiner	0
102	10/01/2007	APRB	Reply Brief Filed	0
101	08/30/2007	PACC	Exam. Ans. Review Complete	0
96	07/30/2007	07/28/2007 MAPEA	Mail Examiner's Answer	2 93
95	07/23/2007	APEA	Examiner's Answer to Appeal Brief	0
94	05/15/2007	FWDX	Date Forwarded to Examiner	0
93	03/28/2007	AP.B	Appeal Brief Filed	0
92	03/09/2007	APBD	Notice -- Defective Appeal Brief	0
90	12/18/2006	APBR	Appeal Brief Review Complete	0
89	12/18/2006	FWDX	Date Forwarded to Examiner	0
91	11/20/2006	IDSC	Information Disclosure Statement considered	0
87	11/20/2006	RCAP	Reference capture on IDS	0
86.7	11/20/2006	M844	Information Disclosure Statement (IDS) Filed	0
86	11/20/2006	WIDS	Information Disclosure Statement (IDS) Filed	0
88.1	11/13/2006	APBI	Defective / Incomplete Appeal Brief Filed	0
88	11/13/2006	AP.B	Appeal Brief Filed	0
85	10/13/2006	APBD	Notice -- Defective Appeal Brief	0
84	08/05/2006	FWDX	Date Forwarded to Examiner	0
83.1	07/24/2006	APBI	Defective / Incomplete Appeal Brief Filed	0
83	07/24/2006	AP.B	Appeal Brief Filed	0
82	06/22/2006	MAPCP	Mail Appeals conf. Proceed to BPAI	0
81	06/20/2006	APCP	Pre-Appeals Conference Decision - Proceed to BPAI	0
80	04/27/2006	AP.C	Request for Pre-Appeal Conference Filed	0
79	04/27/2006	N/AP	Notice of Appeal Filed	0
75	02/24/2006	MCTFR	Mail Final Rejection (PTOL - 326)	0
74	02/21/2006	CTFR	Final Rejection	0
73	12/07/2005	FWDX	Date Forwarded to Examiner	0
72	11/22/2005	A...	Response after Non-Final Action	0
71	10/06/2005	DOCK	Case Docketed to Examiner in GAU	0
70	08/23/2005	MCTNF	Mail Non-Final Rejection	0
69	08/22/2005	CTNF	Non-Final Rejection	0
68	06/07/2005	FWDX	Date Forwarded to Examiner	0
66	06/07/2005	ABN9	Disposal for a RCE / CPA / R129	0
67	05/31/2005	04/21/2005 RCEX	Request for Continued Examination (RCE)	40 59
65	05/31/2005	XT/G	Request for Extension of Time - Granted	0
64	05/31/2005	BRCE	Workflow - Request for RCE - Begin	0
63	04/28/2005	MCTAV	Mail Advisory Action (PTOL - 303)	0
62	04/27/2005	CTAV	Advisory Action (PTOL-303)	0
61	03/29/2005	FWDX	Date Forwarded to Examiner	0
60	03/21/2005	A.NE	Amendment after Final Rejection	0

59	01/21/2005	12/20/2004	MCTFR	Mail Final Rejection (PTOL - 326)	32	56
58	01/18/2005		CTFR	Final Rejection		0
57	11/17/2004		FWDX	Date Forwarded to Examiner		0
55	10/13/2004		DOCK	Case Docketed to Examiner in GAU		0
56	08/20/2004		A...	Response after Non-Final Action		0
54	08/20/2004		WAMD	Workflow incoming amendment IFW		0
53	05/20/2004		MCTNF	Mail Non-Final Rejection		0
52	05/17/2004		CTNF	Non-Final Rejection		0
51	03/10/2004		FWDX	Date Forwarded to Examiner		0
49	03/10/2004		FWDX	Date Forwarded to Examiner		0
47	03/10/2004		ABN9	Disposal for a RCE / CPA / R129		0
50	02/17/2004		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE		0
48	02/17/2004	02/13/2004	RCEX	Request for Continued Examination (RCE)	4	45
46	02/17/2004		BRCE	Workflow - Request for RCE - Begin		0
45	11/13/2003	10/18/2003	MCTFR	Mail Final Rejection (PTOL - 326)	26	42
44	11/13/2003		CTFR	Final Rejection		0
43	09/15/2003		FWDX	Date Forwarded to Examiner		0
105	06/19/2003		IDSC	Information Disclosure Statement considered		0
100	06/19/2003	06/18/2003	M844	Information Disclosure Statement (IDS) Filed	1	42
99	06/19/2003		WIDS	Information Disclosure Statement (IDS) Filed		0
42	06/18/2003		A...	Response after Non-Final Action		0
41	03/18/2003		MCTNF	Mail Non-Final Rejection		0
40	03/10/2003		CTNF	Non-Final Rejection		0
38	01/14/2003		FWDX	Date Forwarded to Examiner		0
36	01/14/2003		FWDX	Date Forwarded to Examiner		0
34	01/14/2003		ABN9	Disposal for a RCE / CPA / R129		0
39.7	01/09/2003	01/09/2003	M844	Information Disclosure Statement (IDS) Filed		35
39	01/09/2003		WIDS	Information Disclosure Statement (IDS) Filed		0
37	01/09/2003		SA..	Supplemental Response		0
35	01/09/2003	08/06/2002	RCEX	Request for Continued Examination (RCE)	156	24
33	01/09/2003		XT/G	Request for Extension of Time - Granted		0
32	01/09/2003		BRCE	Workflow - Request for RCE - Begin		0
31	07/23/2002		MCTAV	Mail Advisory Action (PTOL - 303)		0
29	07/23/2002		MCTAV	Mail Advisory Action (PTOL - 303)		0
30	07/22/2002		CTAV	Advisory Action (PTOL-303)		0
28	07/22/2002		CTAV	Advisory Action (PTOL-303)		0
27	07/19/2002		FWDX	Date Forwarded to Examiner		0
26	07/03/2002		A.NE	Amendment after Final Rejection		0
25	06/03/2002		DOCK	Case Docketed to Examiner in GAU		0
24	05/06/2002		MCTFR	Mail Final Rejection (PTOL - 326)		0
23	05/06/2002		CTFR	Final Rejection		0
21	04/25/2002		FWDX	Date Forwarded to Examiner		0
19	04/25/2002		ABN9	Disposal for a RCE / CPA / R129		0
17	04/23/2002		DOCK	Case Docketed to Examiner in GAU		0
22	04/19/2002		A.PE	Preliminary Amendment		0
20	04/19/2002		ACPA	Continuing Prosecution Application - Continuation (ACPA)		0
18	04/19/2002		XT/G	Request for Extension of Time - Granted		0
16	04/19/2002		BRCE	Workflow - Request for RCE - Begin		0

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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6353753	2002-03-05	09305418	1999-05-05	D6198

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input checked="" type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☐ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☒ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

A Joint Patentee and I certify that I am authorized to sign this submission on behalf of all the other patentees			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/Stephen Flock/	Date (YYYY-MM-DD)	2012-03-02
Name	Stephen Flock		
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6353753 :
Issue Date: March 5, 2002 :
Application No. 09305418 :DECISION GRANTING PETITION
Filed: May 5, 1999 :UNDER 37 CFR 1.378(c)
Attorney Docket No. D6198 :

This is a decision on the electronic petition, filed March 2, 2012, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 2, 2012. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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In re Patent No. 6370604
Issue Date: April 9, 2002
Application No. 09307301
Filed: May 7, 1999
Attorney Docket No. 16289-32

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed October 18, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 18, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6370604	2002-04-09	09307301	1999-05-07	16289-32

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input checked="" type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Kendal M. Sheets/	Date (YYYY-MM-DD)	2010-10-15
Name	Kendal M. Sheets	Registration Number	47077
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

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1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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Ilya Zborovsky
6 Schoolhouse Way
Dix Hills NY 11746

MAILED
JUL 05 2011
OFFICE OF PETITIONS

In re Patent No. 6,939,288
Issue Date: September 6, 2005
Application No. 09/308,913
Filed: May 26, 1999

ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed June 9, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on September 7, 2009 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to Terri Johnson at (571) 272-2991.

The patent file is being forwarded to Files Repository.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions



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P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

FULBRIGHT & JAWORSKI, LLP
1301 MCKINNEY
SUITE 5100
HOUSTON TX 77010-3095

MAILED
OCT 21 2011

In re Application of	:	OFFICE OF PETITIONS
Bradley et al.	:	
Application No. 09/309,140	:	DECISION ON PETITION
Filed: May 10, 1999	:	PURSUANT TO
Patent No. 6,131,631	:	37 C.F.R. § 1.28(c)
Issued: October 17, 2000	:	
Attorney Docket No. P01831USO	:	
Title: PRESS PLUG SUPPORT FOR	:	
TIRE INFLATION SYSTEM	:	

This is a notice regarding your submission of September 22, 2011, which is properly treated as a request for acceptance of a fee deficiency submission under 37 C.F.R. § 1.28(c). On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR § 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 C.F.R. § 1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore, nothing in this notice is intended to imply that an investigation was done.

37 C.F.R. § 1.28(c)(2)(ii) sets forth that the party submitting the deficient payment must include:

- (a) Each particular type of fee that was erroneously paid as a small entity, (e.g., basic statutory filing fee, two-month extension of time fee) along with the current fee amount for a non-small entity;
- (b) The small entity fee actually paid, and when;
- (c) The deficiency owed amount (for each fee erroneously paid); and
- (d) The total deficiency payment owed, which is the sum or total of the individual deficiency owed amounts set forth in paragraph (c)(2)(ii)(C) of

this section.

The deficiency payment in the amount of \$2730 has been received.

Petitioner has identified the particular type of fees that were erroneously paid as a small entity, when the small entity fees were actually paid, the small entity fees that were actually paid, the deficiency owed amounts, and the total deficiency payment owed.

However, the record is unclear as to both one deficiency owed amount and the total deficiency payment owed: Petitioner has asserted that on May 10, 1999, \$380 was submitted for the initial filing fee, and the current fee is \$850. However, Petitioner has indicated that the difference between \$850 and \$380 is \$0.

This does not appear to be accurate, and as such, this petition under 37 C.F.R. § 1.28(c) is **DISMISSED**.

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition under 37 C.F.R. 1.28(c)". This is not a final agency action within the meaning of 5 U.S.C 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanowski, and any renewed petition may be submitted by mail,¹ hand-delivery,² or facsimile.³ Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.⁴

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If Petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the

1 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

2 Customer Window, Randolph Building, 401 Dulany Street, Alexandria, VA, 22314.

3 (571) 273-8300- please note this is a central facsimile number.

4 <https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html>

contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For Petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at <http://www.uspto.gov/web/forms/sb0122.pdf>.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.⁵

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: Derrick A. Pizarro
Cox Smith Matthews Incorporated
112 East Pecan Street, Suite 1800
San Antonio, Texas 78205-1536

⁵ Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

COX SMITH MATTHEWS INCORPORATED
112 EAST PECAN STREET, SUITE 1800
SAN ANTONIO TX 78205-1521

MAILED
NOV 18 2011
OFFICE OF PETITIONS

In re Application of	:	
Bradley et al.	:	
Application No. 09/309,140	:	DECISION ON RENEWED
Filed: May 10, 1999	:	PETITION PURSUANT TO
Patent No. 6,131,631	:	37 C.F.R. § 1.28(c)
Issued: October 17, 2000	:	
Attorney Docket No. P01831USO	:	
Title: PRESS PLUG SUPPORT FOR	:	
TIRE INFLATION SYSTEM	:	

This is a notice regarding your renewed submission of November 10, 2011, which is properly treated as a request for acceptance of a fee deficiency submission under 37 C.F.R. § 1.28(c). On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR § 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 C.F.R. § 1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore, nothing in this notice is intended to imply that an investigation was done.

37 C.F.R. § 1.28(c)(2)(ii) sets forth that the party submitting the deficient payment must include:

- (a) Each particular type of fee that was erroneously paid as a small entity, (e.g., basic statutory filing fee, two-month extension of time fee) along with the current fee amount for a non-small entity;
- (b) The small entity fee actually paid, and when;
- (c) The deficiency owed amount (for each fee erroneously paid); and
- (d) The total deficiency payment owed, which is the sum or total of the individual deficiency owed amounts set forth in paragraph (c)(2)(ii)(C) of this section.

The deficiency payment in the amount of \$2730 was received along with the filing of an original petition on September 22, 2011, where Petitioner identified the particular type of fees that were erroneously paid as a small entity, when the small entity fees were actually paid, the small entity fees that were actually paid, the deficiency owed amounts, and the total deficiency payment owed.

The original petition was dismissed via the mailing of a decision on October 21, 2011, which indicated that the record is unclear as to both one deficiency owed amount and the total deficiency payment owed.

With this renewed petition, this issue has been sufficiently explained.

Your fee deficiency submission pursuant to 37 C.F.R. § 1.28(c) is hereby accepted. The renewed petition is **GRANTED** accordingly.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.



Paul Shanoski
Senior Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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KONRAD RAYNES & VICTOR, LLP
ATTN: IBM37
315 SOUTH BEVERLY DRIVE, STE. 210
BEVERLY HILLS, CA 90212

MAILED

NOV 25 2011

OFFICE OF PETITIONS

In re Application of
CHRISTOPHER J. STAKUTIS et al
Application No. 09/309,453
Filed: May 11, 1999
Attorney Docket No. SJO919970205US2

:
:
: DECISION ON PETITION
:
:

This is a decision on the petition under 37 CFR 1.182 filed September 13, 2011, to withdraw information from the above identified application. This is also a decision on a petition to expedite the petition decision under 37 CFR 1.182, filed September 26, 2011.

The petition filed under 37 CFR 1.182, to expedite, is **GRANTED**.

The petition filed under 37 CFR 1.182 to withdraw a Terminal Disclaimer is **DISMISSED**.

Petitioners assert that, the terminal disclaimer filed July 10, 2000 over patent 5,995,097 was erroneously filed since the patent had neither common owner nor a common inventor with the present patent 6,161,104.

On October 21, 1999, the examiner in charge of the application rejected claims 1-40 under the judicially created doctrine of double patenting over claims 1-39 of U.S. Patent No. 5, 950,203. In the response filed on April 24, 2000 applicant's attorney noted the obviousness-type double patenting issue raised by the examiner but requested that such issue be addressed later during prosecution in view of the amendments, and after allowable subject matter.

On May 8, 2000, the examiner issued a final rejection that rejected claims 1-16 under the judicially created doctrine of double patenting over claims 2-5, 7, 9, 11-13, and, 15 of U.S. Patent No. 5,995,097.

In response to the final rejection mailed May 8, 2000, on July 10, 2000 applicant submitted a terminal disclaimer over 5,995,097. However, applicant indicated in the remarks of the amendment submitted with the response, that a terminal disclaimer was being filed over commonly assigned U.S. Patent 5,950,203.

On July 24, 2000, the examiner allowed the application and on December 12, 2000, upon receipt of the drawings and payment of the issue fee, the application issued as U.S. Patent No. 6,161,104.

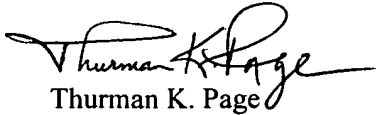
On September 8, 2011, petitioner filed a terminal disclaimer over U.S. Patent No. 5,950,203.

On October 1, 2011, the Terminal Disclaimer filed September 8, 2011 was accepted.

Petitioner now request withdrawal of the terminal disclaimer filed July 10, 2000.

A review of the file history indicates that during prosecution of the instant application, a proper response to the examiner's final rejection of May 8, 2000 necessitated a Terminal Disclaimer, Request for Continued Application, continuation, or if applicant disagreed, a Notice of Appeals to the Board of Appeals and Patent Interferences. Since applicant chose to file a Terminal Disclaimer, applicant cannot now after allowance allege an improper rejection, and on that basis request that a necessary Terminal Disclaimer be withdrawn. Prosecution of the merits of the application ended at the time of the mailing of the Notice of Allowance. Hence applicant cannot more than ten years later request changes to the file regarding the merits of a previous rejection. Accordingly, the request to withdraw the Terminal Disclaimer is dismissed.

Telephone inquiries related to this decision should be addressed to the undersigned at (571) -272-0602.


Thurman K. Page
Petitions Examiner
Office of Petitions



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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6510234 :
Issue Date: January 21, 2003 :
Application No. 09310409 :DECISION GRANTING PETITION
Filed: May 12, 1999 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 12366 :

This is a decision on the electronic petition, filed July 1, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of July 1, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,510,234	2003-01-21	09/310,409	1999-05-12	12366

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input checked="" type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Paul J. Esatto, Jr./	Date (YYYY-MM-DD)	2011-06-20
Name	Paul J. Esatto, Jr.	Registration Number	30749
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6152829 :
Issue Date: November 28, 2000 :
Application No. 09310963 :DECISION GRANTING PETITION
Filed: May 13, 1999 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 31446-148444 :

This is a decision on the electronic petition, filed November 19, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 19, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6152829	2000-11-28	09310963	1999-05-13	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input checked="" type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Sean A. Passino/	Date (YYYY-MM-DD)	2010-11-19
Name	Sean A. Passino	Registration Number	45943
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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Sheridon K. Snedden
Pillsbury Winthrop Shaw Pittman, LLP (NV)
PO Box 10500
McLean VA 22102

MAILED

JAN 13 2012

OFFICE OF PETITIONS

NOTICE

In re Patent No. 6,149,432 :
Issued: November 21, 2000 :
Application No. 09/312,114 :
Filed: January 4, 1999 :
For: BUTTRESS THREAD DENTAL :
IMPLANT :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, practitioner's signature appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If practitioner desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to practitioner, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the correspondence address of record.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6215335 :
Issue Date: April 10, 2001 :
Application No. 09312436 :DECISION GRANTING PETITION
Filed: May 14, 1999 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 30019.91US01 :

This is a decision on the electronic petition, filed October 4, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 4, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6215335	2001-04-10	09312436	1999-05-14	30019.91US01

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input checked="" type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Kendal M. Sheets/	Date (YYYY-MM-DD)	2010-09-30
Name	Kendal M. Sheets	Registration Number	47077
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

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3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
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6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
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UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6495083 :
Issue Date: December 17, 2002 :
Application No. 09312705 :DECISION GRANTING PETITION
Filed: May 17, 1999 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 011608-055 :

This is a decision on the electronic petition, filed March 14, 2012, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 14, 2012. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,495,083	2002-12-17	09/312,705	1999-05-17	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
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SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

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I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
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- ☐ The assignee of record of the entire interest

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Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/jaye g. heybl/	Date (YYYY-MM-DD)	2012-03-14
Name	Jaye G. Heybl	Registration Number	42661
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

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7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
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ST JUDE MEDICAL ATRIAL FIBRILLATION DIVISION
LEGAL DEPARTMENT
ONE ST JUDE MEDICAL DRIVE
ST PAUL MN 55117-9913

MAILED
JAN 23 2012
OFFICE OF PETITIONS

In re
Hosheng Tu
Application No. 09/313,429
Filed: May 17, 1999
Patent No. 6,165,206
Issued: December 26, 2000

DECISION

This is a decision on the fee deficiency submission under 37 CFR 1.28(c), filed December 22, 2011.

The fee deficiency submission under 37 CFR 1.28 of \$660 for the 3.5 year maintenance fee is hereby accepted.

The change of status to large entity has been entered.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6224960	2001-05-01	09313951	1999-05-18	G016-P10999US

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input checked="" type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

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Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Steven C. Sereboff/	Date (YYYY-MM-DD)	2010-12-01
Name	Steven C. Sereboff	Registration Number	37035
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

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In re Patent No. 6224960
Issue Date: May 1, 2001
Application No. 09313951
Filed: May 18, 1999
Attorney Docket No. 79375RLO

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed December 1, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 1, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6342049	2002-01-29	09/314,178	1999-05-18	061491-0276881

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NOT Small Entity

- | | Fee | Code |
|---------------------------------|-----|--------|
| <input type="radio"/> 3 ½ year | | (1551) |
| <input type="radio"/> 7 ½ year | | (1552) |
| <input type="radio"/> 11 ½ year | | (1553) |

Small Entity

- | | Fee | Code |
|---|-----|--------|
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MAINTENANCE FEE (37 CFR 1.20(e)-(g))

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STATEMENT

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I certify, in accordance with 37 CFR 1.4(d)(4) that I am

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- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
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Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Jack S. Barufka/	Date (YYYY-MM-DD)	2011-01-06
Name	Jack S. Barufka	Registration Number	37087
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

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The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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In re Patent No. 6342049 :
Issue Date: January 29, 2002 :
Application No. 09314178 :DECISION GRANTING PETITION
Filed: May 18, 1999 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 061937.00700 :

This is a decision on the electronic petition, filed January 6, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 6, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



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P.O. Box 1450
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In re Patent No. 6175248 :
Issue Date: January 16, 2001 :
Application No. 09314426 :DECISION GRANTING PETITION
Filed: May 18, 1999 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 30019.89US01 :

This is a decision on the electronic petition, filed October 4, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 4, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6175248	2001-01-16	09314426	1999-05-18	30019.89US01

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input checked="" type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Kendal M. Sheets/	Date (YYYY-MM-DD)	2010-09-30
Name	Kendal M. Sheets	Registration Number	47077
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

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3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
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5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
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In re Patent No. 6414734
Issue Date: July 2, 2002
Application No. 09315407
Filed: May 20, 1999
Attorney Docket No. 24155

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed March 22, 2012, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 22, 2012. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6414734	2002-07-02	09315407	1999-05-20	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input checked="" type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Marvin Motsenbocker/	Date (YYYY-MM-DD)	2012-03-22
Name	Marvin A. Motsenbocker	Registration Number	36614
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

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2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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KATTEN MUCHIN ROSENMAN LLP
575 MADISON AVENUE
NEW YORK NY 10022-2585

MAILED

JAN 25 2011

OFFICE OF PETITIONS

DECISION ON PETITION

In re Application of
Akio Ohba
Application No. 09/315,713
Filed: February 20, 1999
Attorney Docket No. SCEI 16.084(100809-
16101)

This is a decision on the petition, filed October 4, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the Notice of Allowance and Fees Due mailed January 27, 2003, and to the Notice to File Corrected Application Papers mailed July 9, 2003.

Petitioner asserts that the Office actions dated January 27, 2003 and July 9, 2003, were not received.

A review of the written record indicates an irregularity in the mailing of the Office actions of January 27, 2003 and July 9, 2003. In this regard, the Office received a change of address on June 19, 2002, prior to the mailing of the Office actions of January 27, 2003 and July 9, 2003. Office records were not updated to reflect this new change of address. Accordingly, as the Office action was mailed to an incorrect address, the holding of abandonment is hereby withdrawn.

This application is being referred to the Technology Center technical support staff of Art Unit 2625 for remailing the Office actions mailed January 27, 2003 and July 9, 2003 and resetting the period for reply.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions



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HOWARD & HOWARD ATTORNEYS PLLC
450 West Fourth Street
Royal Oak MI 48067

MAILED
SEP 30 2011
OFFICE OF PETITIONS

In re Patent No. 6,289,763	:	
Issue Date: September 18, 2001	:	
Application No. 09/315,751	:	ON PETITION
Filed: May 20, 1999	:	
Attorney Docket No. 65-748-512	:	

This is a decision on the petition under 37 CFR 1.378(c), filed September 15, 2011 to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on September 19, 2009, for failure to pay the seven and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

The patent file is being forwarded to Files Repository.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Thomas E. Anderson
Gifford, Krass, Sprinkle, Anderson & Citkowski, P.C.
P.O. Box 7021
Troy, MI 48007-7021



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200 CARILLON PARKWAY
ST. PETERSBURG FL 33716

MAILED

FEB 23 2011

OFFICE OF PETITIONS

In re Application of SCOTT CHRISTENSEN	: DECISION ON REQUEST
Application No. 09/315,822	: FOR RECONSIDERATION OF
Filed: August 28, 2002	: PATENT TERM ADJUSTMENT and
Attorney Docket No.: INVE0013-1	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION

This is a decision on: (a) the petition under 37 CFR 1.702, filed on July 16, 2010, which is being treated as a petition under 37 CFR 1.705(b) requesting that the previously determined initial patent term adjustment for the above-identified application be corrected to indicate nine hundred twelve (912) days, and (b) the petition filed July 16, 2010, under 37 CFR 1.181(a)(3) to invoke the supervisory authority of the Director to enter the above noted petition filed under 37 CFR 1.702.

As an initial matter, it is noted that a Continued Prosecution Application (CPA) was filed in the instant application on August 28, 2002. The acceptance of the CPA was noted in the Office action mailed April 7, 2003. Under the provisions of 37 CFR 1.53(d)(2) in effect at that time, the filing date of the instant application is August 28, 2002. Accordingly, as the instant application is eligible for patent term adjustment under 37 CFR 1.702, the above noted petition under 37 CFR 1.702 is being considered in place of the petition under 37 CFR 1.701 filed previously on May 31, 2010.

The petition to correct the initial patent term adjustment determination is **GRANTED to the extent indicated.**

In view of the above, the petition under 37 CFR 1.181 is **DISMISSED AS UNNECESSARY.**

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **nine hundred twelve (912) days**. A copy of the updated PAIR screen, showing the corrected determination, is enclosed.

The application is hereby forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and if applicable, for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to Ramesh Krishnamurthy at (571) 272-4914.

A handwritten signature in black ink, appearing to read 'Anthony Knight', is positioned above the printed name.

Anthony Knight
Director,
Office of Petitions

Enclosure(s): Copy of the Updated PAIR Screen Printout

09/315,822

VIRTUAL COUPONING METHOD AND APPARATUS FOR USE WITH CONSUMER KIOSK

02-23-

2011::14:25:20

Patent Term Adjustments

Patent Term Adjustment (PTA) for Application Number: 09/315,822

Filing or 371(c) Date:	05-21-1999	Overlapping Days Between {A and B} or {A and C}:	0
Issue Date of Patent:	-	Non-Overlapping USPTO Delays:	1151
A Delays:	231	PTO Manual Adjustments:	116
B Delays:	0	Applicant Delays:	355
C Delays:	920	Total PTA Adjustments:	912

Patent Term Adjustment History**Explanation Of Calculations**

Number	Date	Contents Description	PTO(Days)	APPL (Days)	Start
187	02-23-2011	Adjustment of PTA Calculation by PTO	116		0
163	05-24-2010	Mail Notice of Allowance			0
162	05-20-2010	Issue Revision Completed			0
161	05-20-2010	Document Verification			0
160	05-20-2010	Notice of Allowance Data Verification Completed			0
159	05-20-2010	Allowability Notice			0
156	05-10-2010	Email Notification			0
155	05-10-2010	Change in Power of Attorney (May Include Associate POA)			0
154	05-06-2010	Correspondence Address Change			0
153	01-08-2010	Mail Non-Final Rejection			0
152	01-04-2010	Subtract 1.00 Disposal Count			0
151	01-04-2010	Disposal Flag Change			0
150	01-04-2010	Non-Final Rejection			0
148	01-04-2010	Disposal Flag Change			0
147	01-04-2010	Subtract Disposal Count			0
146	09-28-2009	Amendment/Argument after BPAI Decision			0
145	07-30-2009	Mail BPAI Decision on Appeal - Affirmed in Part	920		103
144	07-29-2009	BPAI Decision - Examiner Affirmed in Part			0
143	07-21-2009	Mail BOA miscellaneous communication to applicant			0
142	07-21-2009	BOA miscellaneous communication to applicant			0
141	05-21-2009	Confirmation of Hearing by Appellant			0
140	05-14-2009	Notification of Appeal Hearing			0
139	01-05-2009	Docketing Notice Mailed to Appellant			0
138	01-05-2009	Assignment of Appeal Number			0
136	12-12-2008	Appeal Awaiting BPAI Docketing			0
135	12-03-2008	Mail Reply Brief Noted by Examiner			0
134	12-02-2008	Reply Brief Noted by Examiner			0
133	11-17-2008	Exam. Ans. Review Complete			0
132	11-07-2008	Mail Supplemental Examiner's Answer			0
131	11-06-2008	2nd or Subsequent Examiner's Answer to Appeal Brief			0
130	10-22-2008	Return of Undocketed appeal to the TC			0
129	10-22-2008	Exam. Ans. Review Complete			0
128	10-16-2008	Order Returning Undocketed Appeal to the Examiner			0
127	07-24-2008	Appeal Awaiting BPAI Docketing			0
126	07-14-2008	Appeal ready for BPAI review			0
125	04-18-2008	Exam. Ans. Review Complete			0
124	04-14-2008	Mail Supplemental Examiner's Answer			0
123	04-11-2008	2nd or Subsequent Examiner's Answer to Appeal Brief			0
122	12-03-2007	Return of Undocketed appeal to the TC			0
121	03-14-2008	Date Forwarded to Examiner			0
120	01-29-2008	Reply Brief Filed			0

117	03-14-2008	Withdraw of return of appeal		0
116	01-29-2008	Request for Oral Hearing		0
114	03-04-2008	Case Docketed to Examiner in GAU		0
113	12-03-2007	Return of Undocketed appeal to the TC		0
112	12-03-2007	Exam. Ans. Review Complete		0
110	11-27-2007	2nd or Subsequent Examiner's Answer to Appeal Brief		0
109	11-14-2007	Appeal Brief Review Complete		0
108	11-14-2007	Date Forwarded to Examiner		0
107	11-02-2007	Appeal Brief Filed		0
106	10-15-2007	Notice -- Defective Appeal Brief		0
105	10-10-2007	Date Forwarded to Examiner		0
104.1	01-23-2007	Defective / Incomplete Appeal Brief Filed		0
104	01-23-2007	Appeal Brief Filed		0
103	01-23-2007	Notice of Appeal Filed		0
100	04-17-2007	Order Returning Undocketed Appeal to the Examiner		0
99	01-16-2007	Appeal Awaiting BPAI Docketing		0
98	12-01-2006	Mail Reply Brief Noted by Examiner		0
97	11-29-2006	Reply Brief Noted by Examiner		0
96	09-28-2006	Request for Oral Hearing		0
95	10-03-2006	Date Forwarded to Examiner		0
94	09-28-2006	Reply Brief Filed		0
93	02-07-2003	Corrected filing receipt		0
92	01-28-2003	Corrected filing receipt		0
91	07-28-2006	Mail Examiner's Answer	66	85
90	07-24-2006	Examiner's Answer to Appeal Brief		0
89	05-09-2006	Date Forwarded to Examiner		0
88	04-26-2006	Appeal Brief Filed		0
87	03-27-2006	Notice -- Defective Appeal Brief		0
86	01-26-2006	Date Forwarded to Examiner		0
85.1	01-23-2006	Defective / Incomplete Appeal Brief Filed		0
85	01-23-2006	Appeal Brief Filed		0
84	01-23-2006	Request for Extension of Time - Granted		0
83	01-05-2006	Mail Advisory Action (PTOL - 303)		0
82	12-30-2005	Advisory Action (PTOL-303)		0
81	12-13-2005	Mail Advisory Action (PTOL - 303)		0
80	12-07-2005	Advisory Action (PTOL-303)		0
79	10-25-2005	Mail Appeals conf. Request Defective		0
78	10-21-2005	Pre-Appeals Conference Decision - Request Defective		0
77	09-23-2005	Request for Pre-Appeal Conference Filed		0
73	09-23-2005	Notice of Appeal Filed		0
72	09-28-2005	Date Forwarded to Examiner		0
71	09-23-2005	Amendment/Argument after Notice of Appeal		0
70	07-26-2005	Mail Final Rejection (PTOL - 326)		0
69	07-21-2005	Final Rejection		0
68	05-11-2005	Date Forwarded to Examiner		0
67	05-02-2005	Response after Non-Final Action	63	62
66	05-02-2005	Request for Extension of Time - Granted		0
64	04-20-2005	Correspondence Address Change		0
63	04-21-2005	Change in Power of Attorney (May Include Associate POA)		0
62	11-30-2004	Mail Non-Final Rejection		0
61	11-28-2004	Non-Final Rejection		0
60	11-26-2004	IFW TSS Processing by Tech Center Complete		0

59	11-23-2004	Date Forwarded to Examiner		0
58	10-20-2004	Amendment Submitted/Entered with Filing of CPA/RCE		0
57	11-23-2004	Date Forwarded to Examiner		0
56	10-20-2004	Request for Continued Examination (RCE)	92	45
55	11-23-2004	Disposal for a RCE / CPA / R129		0
54	10-20-2004	Request for Extension of Time - Granted		0
53	04-07-2003	Reference capture on IDS		0
52	10-20-2004	Workflow incoming amendment IFW		0
51	10-20-2004	Workflow - Request for RCE - Begin		0
50	10-15-2004	Mail Advisory Action (PTOL - 303)		0
49	10-07-2004	Advisory Action (PTOL-303)		0
48	09-29-2004	Date Forwarded to Examiner		0
47	07-20-2004	Amendment after Final Rejection		0
46	07-20-2004	Workflow incoming amendment IFW		0
45	04-20-2004	Mail Final Rejection (PTOL - 326)	165	38
44	04-16-2004	Final Rejection		0
43	04-16-2004	Case Docketed to Examiner in GAU		0
42	04-16-2004	Case Docketed to Examiner in GAU		0
41.7	01-23-2004	Electronic Information Disclosure Statement	200	38
41	01-23-2004	Information Disclosure Statement (IDS) Filed		0
40.7	08-27-2003	Information Disclosure Statement (IDS) Filed		0
40	08-27-2003	Information Disclosure Statement (IDS) Filed		0
39	11-10-2003	Date Forwarded to Examiner		0
38	07-07-2003	Response after Non-Final Action		0
33	04-07-2003	Mail Non-Final Rejection		0
32	04-03-2003	Non-Final Rejection		0
31	02-21-2003	Preliminary Amendment		0
30	01-28-2003	Date Forwarded to Examiner		0
29	08-28-2002	Continuing Prosecution Application - Continuation (ACPA)		0
28	01-28-2003	Disposal for a RCE / CPA / R129		0
27	01-17-2003	Mail-Petition to Revive Application - Granted		0
26	08-28-2002	Petition Entered		0
25	08-28-2002	Workflow - Request for CPA - Begin		0

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P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6351662 :
Issue Date: February 26, 2002 :
Application No. 09317679 :DECISION GRANTING PETITION
Filed: May 24, 1999 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 09487/009001 :

This is a decision on the electronic petition, filed May 10, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 10, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,351,662	2002-02-26	09/317,679	1999-05-24	6135-111512

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input checked="" type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/russell d. orkin/	Date (YYYY-MM-DD)	2011-05-10
Name	Russell D. Orkin	Registration Number	25363
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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P.O. Box 1450
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In re Patent No. 6352517 :
Issue Date: March 5, 2002 :
Application No. 09321323 :DECISION GRANTING PETITION
Filed: May 27, 1999 :UNDER 37 CFR 1.378(c)
Attorney Docket No. D6241 :

This is a decision on the electronic petition, filed March 2, 2012, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 2, 2012. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6352517	2002-03-05	09321323	1999-05-27	D6241

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input checked="" type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☐ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☒ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

A Joint Patentee and I certify that I am authorized to sign this submission on behalf of all the other patentees			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/Stephen Flock/	Date (YYYY-MM-DD)	2012-03-02
Name	Stephen Flock		
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

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The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6504991	2003-01-07	09321606	1999-05-28	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input checked="" type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Marvin Motsenbocker/	Date (YYYY-MM-DD)	2012-03-22
Name	Marvin A. Motsenbocker	Registration Number	36614
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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In re Patent No. 6504991 :
Issue Date: January 7, 2003 :
Application No. 09321606 :DECISION GRANTING PETITION
Filed: May 28, 1999 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 0102/0053 :

This is a decision on the electronic petition, filed March 22, 2012, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 22, 2012. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6376799	2002-04-23	09321802	1999-05-27	ID 017811

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input checked="" type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/SMG/	Date (YYYY-MM-DD)	2011-03-28
Name	Steven M. Gruskin	Registration Number	36818
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

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2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
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In re Patent No. 6376799 :
Issue Date: April 23, 2002 :
Application No. 09321802 :DECISION GRANTING PETITION
Filed: May 27, 1999 :UNDER 37 CFR 1.378(c)
Attorney Docket No. P2026.D1 :

This is a decision on the electronic petition, filed March 28, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 28, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



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In re Patent No. 6450822 :
Issue Date: September 17, 2002 :
Application No. 09323196 :DECISION GRANTING PETITION
Filed: June 1, 1999 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 99CR062/KE :

This is a decision on the electronic petition, filed November 4, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 4, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6450822	2002-09-17	09323196	1999-06-01	99CR062

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input checked="" type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

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Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Matthew J. Evans/	Date (YYYY-MM-DD)	2010-11-04
Name	Matthew J. Evans	Registration Number	56530
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

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5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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LEVISOHN, BERGER, LLP
11 BROADWAY, SUITE 615
NEW YORK NY 10004

MAILED

SEP 28 2011

In re Patent No. 6,593,568
Issued: 15 July, 2003
Application No. 09/324,401
Filed: 2 June, 1999
Attorney Docket No. 840.067

OFFICE OF PETITIONS

DECISION ON PETITION

This is a decision on the petition under 37 C.F.R. §1.78(a)(3), filed 18 August, 2011, to accept an unintentionally delayed claim under 35 U.S.C. §120 for benefit of priority to the prior-filed application set forth in the concurrently filed amendment.

NOTE:

The address on the petition is other than that of record. A courtesy copy of the decision will be mailed to Petitioner, however, all future correspondence will be directed to the correspondence address of record until such time as the proper revocation/power of attorney is submitted.

The petition is not accompanied by a proper amendment to the first sentence of the specification following the title to include a reference to the prior-filed applications. (The amendment contains an improper incorporation by reference.)

In addition, it is unclear that there was copendency, in that the non-final Office action in Application No. 08/927,223, to which a claim to priority is sought, was mailed on 2 December, 1998, and appears to have stood abandoned on the filing date of the instant application.)

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 C.F.R. §1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 C.F.R. §1.78(a)(2)(ii). In addition, the petition under 37 C.F.R. §1.78(a)(3) must be accompanied by:

Patent No. 6,593,568
Application No. 09/324,401

- (3) a statement that the entire delay between the date the claim was due under 37 C.F.R. §1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The instant application was filed on 2 June, 1999. Office records reflect that the new claim was presented on 18 August, 2011, however, as noted above, Petitioner has improperly sought to incorporate by reference material not present on deposit of the application. A claim to priority is not equivalent to incorporation by reference. Thus, no amendment was properly presented for consideration by the Examiner under the Rule. (It appears Petitioner did not submit an application data sheet (ADS).)

Furthermore, it appears that applicant would like to retain the incorporation by reference language at the end of the priority claim; however, this language must be removed with respect to U.S. Patent Application No. 08/927,223 since the claim for priority to 08/927,223 was not present on filing. If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See Dart Industries v. Banner*, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

As noted above, the petition does not comply with the requirements of the regulations at 37 C.F.R. §1.78(a)(3) as to reference. The surcharge and statement were submitted.

Thus, the petition lacks item (1), above.

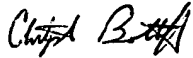
Because the record does not support Petitioner's attempt to identify the priority claimed, the amendment fails to comply with the provisions of 37 C.F.R. §1.78(a)(2)(i) and is therefore unacceptable.

Accordingly, before the petition under 37 C.F.R. §1.78 can be granted, a renewed petition under 37 C.F.R. §1.78 and either an Application Data Sheet or a substitute amendment (complying with 37 C.F.R. §1.121 and 37 C.F.R. §1.76(b)(5)) correcting the priority claims made are required.

Questions concerning this matter may be directed to John Gillon at (571) 272-3214. All other inquiries concerning either the examination procedures or status of the application should be directed to the Office of Data Management.

Patent No. 6,593,568
Application No. 09/324,401

This application is being returned to the IFW Files Repository in due course.



Chris Bottorff
Supervisory Petitions Examiner
Office of Petitions

CC
FISH & RICHARDSON P.C. (BO)
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022



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LEVISOHN, BERGER, LLP
11 BROADWAY, SUITE 615
NEW YORK NY 10004

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OFFICE OF PETITIONS

In re Patent No. 6,593,568 :
Issued: 15 July, 2003 :
Application No. 09/324,401 : **DECISION ON PETITION**
Filed: 2 June, 1999 :
Attorney Docket No. 840.067 :

This is a decision on the petition under 37 C.F.R. §1.78, filed on 7 December, 2011, to accept an unintentionally delayed claim under 35 U.S.C. §120 for benefit of priority to the prior-filed application set forth in the concurrently filed amendment.

NOTE:

The petition is not accompanied by a proper amendment to the first sentence of the specification following the title to include a reference to the prior-filed applications. (The amendment fails to state the relationship as between the applications.)

In addition, it is unclear that there was copendency, in that the non-final Office action in Application No. 08/927,223, to which a claim to priority is sought, was mailed on 2 December, 1998, and appears to have stood abandoned on the filing date of the instant application. The three month extension of time requested in 08/927,223 was filed on June 7, 1999, yet the petition acknowledges that the deadline for this extension was June 2, 1999. 08/927,223 appears to have been abandoned before the June 7, 1999 filing.

The petition is **DISMISSED**.

A petition under 37 C.F.R. §1.78 must be accompanied by:

- (1) the reference required by 35 U.S.C. §120 and 37 C.F.R. §1.78 of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in §1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 C.F.R. §1.78 and the date the claim was filed was

Patent No. 6,593,568
Application No. 09/324,401

unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The instant application was filed on 2 June, 1999. Office records reflect that the new claim was first presented on 18 August, 2011, however, at that time Petitioner improperly sought to incorporate by reference material not present on deposit of the application. (A claim to priority is not equivalent to incorporation by reference. Thus, no amendment was properly presented for consideration by the Examiner under the Rule.) The petition was dismissed on 28 September, 2011.

Petitioner re-advanced the petition on 7 December, 2011, with a contemporaneously filed amendment, a form certificate of correction and fee. (It appears Petitioner also submitted an application data sheet (ADS).) Petitioner failed to state in the amendment the relationship of the instant application—e.g., divisional, continuation-in-part, or the like—to that which Petitioner claims as a parent (Application No. 08/927,223, the '223 application), although there is entry in the ADS whereby Petitioner indicates that the instant application is a "continuation of" the '223 application. Petitioner must place the relational statement in the amendment and copendency must exist between the applications cited in the priority claim.

As noted above, the petition does not comply with the requirements of the regulations at 37 C.F.R. §1.78 as to reference. The surcharge and statement were submitted.

Thus, the petition lacks item (1), above.

Because the record does not support Petitioner's attempt to identify the priority claimed, the amendment fails to comply with the provisions of 37 C.F.R. §1.78 and is therefore unacceptable.

Accordingly, before the petition under 37 C.F.R. §1.78 can be granted, a renewed petition under 37 C.F.R. §1.78 and either an Application Data Sheet or a substitute amendment (complying with 37 C.F.R. §1.121 and 37 C.F.R. §1.76(b)(5)) correcting the priority claims made are required.

Questions concerning this matter may be directed to John Gillon at (571) 272-3214.



Christopher Bottorff
Petitions Examiner
Office of Petitions



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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DAVID E PRITCHARD ESQ
WOOD HERRON & EVANS LLP
2700 CAREW TOWER
CINCINNATI OH 45202

MAILED
MAY 25 2011
OFFICE OF PETITIONS

In re Patent No. RE37147	:	
Issue Date: April 24, 2001	:	
Application No. 09/325,435	:	DECISION ON PETITION
Filed: June 03, 1999	:	
Attorney Docket No. FFI-17	:	

This is a decision on the petition under 37 CFR 1.378(c), filed March 30, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on April 24, 2009 for failure to pay the seven and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

The patent file is being forwarded to Files Repository.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6407698	2002-06-18	09325872	1999-06-04	11779-17

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input checked="" type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☐ An attorney or agent registered to practice before the Patent and Trademark Office
- ☒ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Sole Patentee			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/Mourad Ben Ayed/	Date (YYYY-MM-DD)	2011-06-15
Name	Mourad Ben Ayed		
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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In re Patent No. 6407698
Issue Date: June 18, 2002
Application No. 09325872
Filed: June 4, 1999
Attorney Docket No. SAB-014

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed June 15, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 15, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Patent No. 6477553 :
Issue Date: November 5, 2002 :
Application No. 09326084 :DECISION GRANTING PETITION
Filed: June 4, 1999 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 3798/1 :

This is a decision on the electronic petition, filed October 5, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 5, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,477,553	2002-11-05	09/326,084	1999-06-04	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|---------------------------------|-----|--------|
| <input type="radio"/> 3 ½ year | | (1551) |
| <input type="radio"/> 7 ½ year | | (1552) |
| <input type="radio"/> 11 ½ year | | (1553) |

Small Entity

- | | Fee | Code |
|---|-----|--------|
| <input type="radio"/> 3 ½ year | | (2551) |
| <input checked="" type="radio"/> 7 ½ year | | (2552) |
| <input type="radio"/> 11 ½ year | | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Allen Rubenstein/	Date (YYYY-MM-DD)	2011-10-05
Name	Allen I. RUBENSTEIN	Registration Number	27673
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

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3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
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In re Patent No. 6323870 :
Issue Date: November 27, 2001 :
Application No. 09327016 :DECISION GRANTING PETITION
Filed: June 7, 1999 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 11587 :

This is a decision on the electronic petition, filed October 18, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 18, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6323870	2001-11-27	09327016	1999-06-07	11587

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input checked="" type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Kendal M. Sheets/	Date (YYYY-MM-DD)	2010-10-15
Name	Kendal M. Sheets	Registration Number	47077
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

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1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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In re Patent No. 6526194 :
Issue Date: February 25, 2003 :
Application No. 09327079 :DECISION GRANTING PETITION
Filed: June 4, 1999 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 42615-00190 :

This is a decision on the electronic petition, filed December 27, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 27, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,526,194	2003-02-25	09/327,079	1999-06-04	5881-9

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input checked="" type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☐ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☒ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

The Assignee of record of the entire interest			
Under 37 CFR 3.71 an assignee becomes of record by filing a statement in compliance with 37 CFR 3.73(b). Signature requirements are set forth in 37 CFR 1.4(d), and the undersigned certifies that he / she is empowered to act on behalf of the assignee of the entire interest			
Signature	/Herzel Laor/		Date (YYYY-MM-DD) 2011-12-27
Name	Herzel Laor		
Enter Reel and Frame Number		Remove	
Reel Number	012203	Frame Number	0458
Enter Reel and Frame Number		Remove	
Reel Number	012203	Frame Number	0355
Click ADD for additional Reel Number and Frame Number		Add	
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JOSEPH BACH
17460 LAKEVIEW DRIVE
MORGAN HILL CA 95037

MAILED
DEC 14 2011

OFFICE OF PETITIONS

In re Application of :
Bach :
Application No. 09/327,085 :
Filed: June 4, 1999 :
Attorney Docket No. CA-1378 :
For: System And Method For Soliciting And :
Receiving Merchandise Orders :

DECISION ON PETITION

The above-identified application has been forwarded to the undersigned for consideration on a petition for patent term adjustment entitled "Application for Patent Term Adjustment," received on September 19, 2011.

The request under 37 CFR 1.705 is dismissed.

Petitioner notes that the Notice of Allowance mailed on October 8, 2009, for the above-identified application improperly stated that the Patent Term Adjustment is 1847.¹ Petitioner contends that the instant application is entitled to either 3,512 days, 3,485 days or 3,300 days of patent term adjustment under the provisions of 35 U.S.C. 154(b).

35 U.S.C. § 154(b) (as amended by the "Uruguay Round Agreements Act," enacted December 8, 1994, as part of Public Law 103-465) provides for patent term extension for appellate review, interference and secrecy order delays in applications filed on or after June 8, 1995 and before May 29, 2000. 35 U.S.C. § 154 was amended by the "American Inventors Protection Act of 1999," which was enacted on November 29, 1999 as part of Public Law 106-113 (Consolidated Appropriations Act for Fiscal Year 2000).

The above-identified application was filed on June 4, 1999. Accordingly it is entitled to patent term extension based upon the conditions in 35 U.S.C. § 154(b), in effect on June 8, 1995. The provisions of 35 U.S.C. § 154(b) in effect on May 29, 2000 do not apply, because the amended version of 35 U.S.C. § 154(b) only applies to applications filed on or after May 29, 2000.

¹ The Notice of Allowance and Fee(s) Due stated that the Patent Term Extension is 1,826 day(s).

Pursuant to 35 U.S.C. § 154(b), in effect on June 8, 1995, an applicant can receive patent term extension only if there was an appellate review, interference or a secrecy order delays as set forth in the statute. The patent statute only permits extension of patent term based on very specific criteria. The Office has no authority to grant any extension or adjustment of the term due to administrative delays except as authorized by 35 U.S.C. § 154.

Petitioner's assertion that the application is eligible for patent term adjustment provisions pursuant to 35 U.S.C. § 154 and 37 CFR 1.702 -1.705 is not persuasive. The effective date provision (§ 4405) in the legislation clearly states that the amendments to 35 U.S.C. § 154 apply to applications filed on or after the date that is 6 months after the date of enactment, i.e., May 29, 2000. This provision does not include applications that were filed prior to the date of enactment or even immediately after the date of enactment, but applications that were filed on or after the date that is 6 months after the date of enactment, see *Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term*, 65 FR 56366 (Sept. 18, 2000) 1239 Off Gaz. Pat. Office Notices 14 (Oct. 3, 2000).²

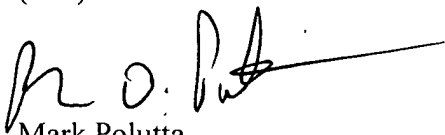
The delay in the allowance and issuance is regrettable, but the Office has no authority to grant an extension or adjustment of the term due to administrative delays except as authorized by 35 U.S.C. § 154(b).

In accordance with 37 CFR 1.701(b), the term of a patent under this section may be extended up to a maximum of five years. The patent term extension under 35 U.S.C. 154 and 37 CFR 1.701 is five (5) years.

The Office's electronic record (Patent Application and Location Monitoring system (PALM)) has been adjusted to show that five (5) years of patent term extension has been accrued to the above-identified application.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition. See 35 U.S.C. § 41 (a)(7). The required \$200 fee for the request under 37 CFR 1.705 has been paid.

Telephone inquiries with regard to this communication should be directed to Mark O. Polutta at (571) 272-7709.



Mark Polutta

Senior Legal Advisor

Office of Patent Legal Administration

Office of the Deputy Commissioner for Patent Examination Policy

² *Sykes v. Dudas*, 573 F.Supp 2d 191, 89 USPQ2d 1423 (D.D.C. 2008).

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6647099	2003-11-11	09327896	1999-06-08	200304161-1

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input checked="" type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Denise A. Lee/	Date (YYYY-MM-DD)	2011-12-06
Name	Denise A Lee	Registration Number	35931
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

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The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6647099 :
Issue Date: November 11, 2003 :
Application No. 09327896 :DECISION GRANTING PETITION
Filed: June 8, 1999 :UNDER 37 CFR 1.378(c)
Attorney Docket No. A98223US :

This is a decision on the electronic petition, filed December 6, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 6, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MAILED
DEC 05 2011

OFFICE OF PETITIONS

Bruce R. Korman
1434 W. 11th Street
Los Angeles CA 90015

In re Patent No. 6,318,536. :
Issue Date: November 20, 2001 :
Application No. 09/328,529 :
Filed: June 9, 1999 :
Attorney Docket No. 34596/CAG/C6 :

ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed November 21, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Any petition for reconsideration of this decision must be accompanied by the petition fee of \$400 as set forth in 37 CFR 1.17(f). The petition for reconsideration must include the lacking item(s) noted above, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner.

A petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. § 41(c) and 37 CFR 1.378(c) must be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2). This petition lacks item (1) above.

As to item (1) the statement of unintentional delay is presently not acceptable since the petition not signed by all of the inventors. See 37 CFR 1.33(b) which states:

(b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:

- (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
- (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
- (3) An assignee as provided for under § 3.71(b) of this chapter; or
- (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

The patent file is being forwarded to Files Repository.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Bruce R. Korman
P.O. Box 12570
Glendale, CA 91224



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Bruce R. Korman
1434 W. 11th Street
Los Angeles CA 90015

MAILED

DEC 29 2011

OFFICE OF PETITIONS

In re Patent No. 6,318,536 :
Issue Date: November 20, 2001 :
Application No. 09/328,529 :
Filed: June 9, 1999 :
Attorney Docket No. 34596/CAG/C6 :

**CORRECTED
ON PETITION**

This is a corrected decision on the petition under 37 CFR 1.378(c), filed November 21, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on November 21, 2009, for failure to pay the seven and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

The patent file is being forwarded to Files Repository.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6631179	2003-10-07	09328705	1999-06-09	046237-0103

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input checked="" type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Michael D. Rechtin/	Date (YYYY-MM-DD)	2012-04-17
Name	Michael D. Rechtin	Registration Number	30128
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

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The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No.	6631179	:
Issue Date:	October 7, 2003	:
Application No.	09328705	:DECISION GRANTING PETITION
Filed:	June 9, 1999	:UNDER 37 CFR 1.378(c)
Attorney Docket No.	46237/103	:

This is a decision on the electronic petition, filed April 17, 2012, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 17, 2012. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DRIGGS, HOGG, DAUGHERTY & DEL ZOPPO CO., L.P.A.
38500 CHARDON ROAD
DEPT. DLBH
WILLOUGBY HILLS, OH 44094

MAILED

SEP 20 2011

OFFICE OF PETITIONS

ON PETITION

In re Patent No. 6,279,432 :
Issue Date: August 28, 2001 :
Application No. 09/328,985 :
Filed: June 9, 1999 :
Patentees: Merritt Armstrong Osborn, et. al. :

This is a decision on the petition under 37 CFR 1.378(c), filed on August 19, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent.

Since petitioner has demonstrated to the satisfaction of the Commissioner that the delay in timely paying the maintenance fee was unintentional, the petition under 37 CFR 1.378(c) is hereby **GRANTED**.

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

This patented file is being forwarded to Files Repository.

Telephone inquiries should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6433786 :
Issue Date: August 13, 2002 :
Application No. 09330261 :DECISION GRANTING PETITION
Filed: June 10, 1999 :UNDER 37 CFR 1.378(c)
Attorney Docket No. CT-280 :

This is a decision on the electronic petition, filed October 18, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 18, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6433786	2002-08-13	09330261	1999-06-10	CT-280

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input checked="" type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Kendal M. Sheets/	Date (YYYY-MM-DD)	2010-10-15
Name	Kendal M. Sheets	Registration Number	47077
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

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2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,542,493	2003-04-01	09/330,380	1999-06-11	TACH-002/01US

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input checked="" type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

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Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Kevin J. ZIMMER #36,977/	Date (YYYY-MM-DD)	2011-05-13
Name	Kevin J. Zimmer	Registration Number	36977
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

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6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
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www.uspto.gov

In re Patent No. 6542493 :
Issue Date: April 1, 2003 :
Application No. 09330380 :DECISION GRANTING PETITION
Filed: June 11, 1999 :UNDER 37 CFR 1.378(c)
Attorney Docket No. TACH-002/01US 200073-2035 :

This is a decision on the electronic petition, filed May 13, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 13, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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In re Patent No. 6577984
Issue Date: June 10, 2003
Application No. 09331216
Filed: June 7, 2000
Attorney Docket No. 96-ILK-843

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed March 30, 2012, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 30, 2012. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,577,984	2003-06-10	09/331,216	2000-06-07	DP-307940

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input checked="" type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

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Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/James M. Chan/	Date (YYYY-MM-DD)	2012-03-30
Name	James M. Chan	Registration Number	51183
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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MAY 09 2011

OFFICE OF PETITIONS

FAY KAPLUN & MARCIN, LLP
150 BROADWAY, SUITE 702
NEW YORK NY 10038

In re Patent No. 6,490,616	:	
Issue Date: December 3, 2002	:	
Application No. 09/332,069	:	ON PETITION
Filed: June 14, 1999	:	
Attorney Docket No. 40101/03901	:	

This is a decision on the petition filed February 16, 2011, a petition under 37 CFR 1.378(c), to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on December 4, 2010, for failure to pay the seven and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

The patent file is being forwarded to Files Repository.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions



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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DEC 05 2011

OFFICE OF PETITIONS

YOUNG & THOMPSON
209 MADISON STREET
SUITE 500
ALEXANDRIA VA 22314

In re Patent No. 6,713,080 :
Issue Date: March 30, 2004 :
Application No. 09/332,120 : **NOTICE**
Filed: June 14, 1999 :
Attorney Docket No. HAL/MLA/ALB

This is in response to the paper filed November 15, 2011, which is being treated under 37 CFR 1.28(c) seeking status as a large entity.


The request is **DISMISSED**.

The request is signed by Gill Lennon and Guillaume Gasc.

37 CFR 1.33(b) states:

“Amendments and other papers filed in the application must be signed by: (1) An attorney or agent of record appointed in compliance with § 1.34(b); (2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a); (3) The assignee of record of the entire interest, if there is an assignee of record of the entire interest; (4) An assignee of record of an undivided part interest, and any assignee(s) of the remaining interest and any applicant retaining an interest, if there is an assignee of record of an undivided part interest; or (5) All of the applicants (§§ 1.42, 1.43 and 1.47) for patent, unless there is an assignee of record of the entire interest and such assignee has taken action in the application in accordance with §§ 3.71 and 3.73.”

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.


Irvin Dingle
Petitions Examiner
Office of Petitions

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7,171,000	2007-01-30	09/332,358	1999-06-10	D2MES001.19

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|---------------------------------|-----|--------|
| <input type="radio"/> 3 ½ year | | (1551) |
| <input type="radio"/> 7 ½ year | | (1552) |
| <input type="radio"/> 11 ½ year | | (1553) |

Small Entity

- | | Fee | Code |
|---|-----|--------|
| <input checked="" type="radio"/> 3 ½ year | | (2551) |
| <input type="radio"/> 7 ½ year | | (2552) |
| <input type="radio"/> 11 ½ year | | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Robert N. Blackmon/	Date (YYYY-MM-DD)	2011-04-04
Name	Robert N. Blackmon	Registration Number	39494
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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In re Patent No. 7171000 :
Issue Date: January 30, 2007 :
Application No. 09332358 :DECISION GRANTING PETITION
Filed: June 10, 1999 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 23615-03915 :

This is a decision on the electronic petition, filed April 4, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 4, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



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P.O. Box 1450
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THOMAS E. WORKMAN JR.
LAW OFFICES OF THOMAS WORKMAN
41 HARRISON STREET
TAUNTON, MA 02780

MAILED

AUG 29 2011

OFFICE OF PETITIONS

In re Patent No. 6,184,786
Issue Date: February 6, 2001
Application No. 09/332,375
Filed: June 14, 1999
Attorney Docket No. TEW/204

:
:
:
:
:

ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed June 30, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Any petition for reconsideration of this decision must be accompanied by the petition fee of \$400 as set forth in 37 CFR 1.17(f). The petition for reconsideration must include the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

A petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. 41(c) and 37 CFR 1.378(c) must be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2). This petition lacks item 1 above.

35 USC 41(c)(1) states that:

“The Director may accept the payment of any maintenance fee required by subsection (b) of this section which is made within twenty-four months after the six-month grace period if the delay is shown to the satisfaction of the Commissioner to have been unintentional, or at any time after the six-month grace period if the delay is shown to the satisfaction of the Commissioner to have been unavoidable.”

The record fails to disclose that the patentee took reasonable steps to ensure timely payment of the maintenance fee. In fact, the record indicates that no steps were taken by patentee to ensure timely payment of the maintenance fee. Since no steps were taken by patentee, 37 CFR 1.378(b) precludes acceptance of the delayed payment of the maintenance fee.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. **A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.**


Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
 Commissioner for Patents
 Post Office Box 1450
 Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
 Customer Service Window, Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Telephone inquiries should be directed to the undersigned at (703) 571-272-0602.



Thurman K. Page
Petitions Examiner
Office of Petitions

cc: **WAYNE A MEDEIROS**
 611 CASWELL ST.
 EAST TAUNTON, MA 02718



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Paper No. 7

Bernard Merritt
10440 Button Willow Drive
Las Vegas, NV 89134

MAILED
FEB 16 2012
OFFICE OF PETITIONS

In re Patent No. 6,185,764	:	
Issued: February 13, 2001	:	ON PETITION
Application No. 09/332,394	:	
Filed: June 14, 1999	:	
Title: MOTORIZED FOLDING BED	:	

This is in response to the petition under 37 CFR 1.378(b), filed January 23, 2012, to accept the unavoidably delayed payment of the maintenance fee for the above-identified patent.

The petition is dismissed.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). Any such petition for reconsideration must be accompanied by the petition fee of \$400.00 as set forth in 37 CFR 1.17(f). The petition for reconsideration should include an exhaustive attempt to provide the lacking item(s) noted below because the Director will not undertake any further reconsideration or review of the matter after a decision on the petition for reconsideration.

The patent issued February 13, 2001. The second maintenance fee could have been paid during the period from February 13, 2008 through August 13, 2008 or with a surcharge during the period from August 14, 2008 through February 13, 2009. Accordingly, this patent expired on February 14, 2009, for failure to timely remit the maintenance fee due at 7.5 years.

Petitioner asserted that the delay in paying the maintenance fee was unavoidable because of financial difficulties. Specifically, petitioner explained that in the last part of 2007 and early 2008, due to a lack of customer, low sales, and financial loss, he had to close his retail business. Petitioner indicated that he was deeply in debt and at age 83 could not find any firm to hire him. Petitioner stated that in 2010, he obtained a means to create a small amount of income. Petitioner explained that he had been living on social security and the kindness of his ex-wife. Petitioner indicated that he saved a portion of the

fees and borrowed the balance to pay the maintenance fees due at 7.5 years. Petitioner asserted that he contacted a major firm, which is preparing plans to start producing the invention in quantity and agreed to pay petitioner a small royalty per unit.

The Director may accept the payment of any maintenance fee due on a patent after expiration of the patent if, upon petition, the delay in payment of the maintenance fee is shown to the satisfaction of the Director to have been unavoidable and if the surcharge required by 37 CFR 1.20(i) is paid as a condition of accepting payment of the maintenance fee. 37 CFR 1.378(a).

A grantable petition under 37 CFR 1.378(b) to accept late payment of a maintenance fee, where the delay was unavoidable, must include:

- (1) the required maintenance fee set forth in 37 CFR 1.20(e) through (g);
- (2) the surcharge set forth in 37 CFR 1.20(i)(1); and
- (3) a showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent.

The showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly. Furthermore, an adequate showing requires a statement by all persons with direct knowledge of the cause of the delay, setting forth the facts as they know them. Copies of all documentary evidence referred to in a statement should be furnished as exhibits to the statement.

This petition lacks requirement (3) above.

Acceptance of a late maintenance fee under the unavoidable delay standard is considered under the same standard for reviving an abandoned application under 35 U.S.C. 133. This is a very stringent standard. Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present. In re Mattullath, 38 App. D.C. 497, 514-15 (1912)

(quoting Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 667-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

As 35 U.S.C. 41(c) requires the payment of fees at specified intervals to maintain a patent in force, rather than some response to a specific action by the Office under 35 U.S.C. 133, a reasonably prudent person in the exercise of due care and diligence would have taken steps to ensure the timely payment of such maintenance fees. Ray v. Lehman, 55 F.3d 606, 608-609, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995). MPEP 2590(I). An adequate showing that the delay was "unavoidable" within the meaning of 35 U.S.C. 41(c) and 37 CFR 1.378(b)(3) requires a showing of the steps that were taken to ensure the timely payment of the maintenance fees for this patent. Id. Thus, where the record fails to disclose that the patentee took reasonable steps, or that the patentee took no steps, to ensure timely payment of the maintenance fee, 35 U.S.C. 41(c) and 37 CFR 1.378(b)(3) preclude acceptance of the delayed payment of the maintenance fee under 37 CFR 1.378(b). Id.

To meet the showing of unavoidable delay based upon financial hardship, petitioner must establish that the financial condition of the patent owner during the entire period of the delay was such as to excuse the delay. See Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891). A complete showing, with supporting documentation, is required of the financial condition of the party who was responsible for payment of the maintenance fee. Therefore, petitioner must provide a MONTHLY breakdown of all his income, expenses, assets, credit, and obligations during the entire period from February 13, 2009, until the present, which made the delay in payment of the maintenance fee "unavoidable." Petitioner should provide copies of any documents or records such as bank statements and tax returns that would confirm the financial difficulty. In essence, petitioner must show that he was aware of the need to pay the maintenance fee, and to that end was tracking it, or had engaged someone to track it before the expiration, but when the fee came due, he was financially unable to make the payment until the petition was filed. The Office strongly advises petitioner to avoid submitting personal information such as social security numbers, bank account numbers, or credit card numbers in any documents submitted with a petition for reconsideration under 37 CFR 1.378(e). Petitioner is further advised that the record of a patent application is available to the public after issuance of a patent.

Petitioner indicated that he had contacted a major firm, which is preparing plans to start production of the invention in quantity and agreed to pay him a small royalty per unit. The Office reminds petitioner that a failure to pay the maintenance fee and enforce the patent due to a belief that the patent is not of sufficient financial value to justify the expense or until the industry shows an interest in the invention is the antithesis of an "unavoidable" or "unintentional" delay and would preclude a finding of unavoidable or unintentional delay. See In re Maldague, 10 USPQ2d 1477, 1478 (Comm'r Pat. 1988); MPEP 711.03(c)(II)(D). Therefore, petitioner must demonstrate that he did not make a deliberate

choice to delay payment of the maintenance fee and enforcement of the patent based upon whether the firm was interested in manufacturing the invention and paying him a royalty.

In summary, the showing of record is inadequate to establish unavoidable delay. Petitioner has not provided sufficient documentary evidence to substantiate a claim of unavoidable delay. Accordingly, the petition is **dismissed**.

Petitioner should note that if this petition is not renewed, or if renewed and not granted, then the maintenance fee and post-expiration surcharge are refundable. The \$400.00 petition fee for seeking further reconsideration is not refundable. Any request for refund should be in writing to the following address:

Mail Stop 16
Director of the US Patent and Trademark Office
PO Box 1450
Alexandria, VA 22313-1450

A copy of this decision should accompany petitioner's request.

The Office notes that the address indicated on the petition differs from the address of record. As a one-time courtesy the Office will mail this communication to the address listed in the petition. However, if petitioner wishes to receive future correspondence concerning this patent, petitioner should submit a change of correspondence address. The appropriate form (Form PTO/SB/123) accompanies this decision for petitioner's convenience.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

By FAX: (571) 273-8300
 Attn: Office of Petitions

By hand: Customer Services Window
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

Patent No. 6,185,764
Application No. 09/332,394

Page 5

Telephone inquiries should be directed to the undersigned at 571-272-3211.

/Christina Tartera Donnell/

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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MARK LAVENDER
St. Jude Medical, Atrial Fibrillation Division, Inc.
One St. Jude Medical Drive
St. Paul, MN 55117-991

MAILED

JAN 23 2012

OFFICE OF PETITIONS

In re Patent No. 6,308,090 :
Issued: October 23, 2001 :
Application No. 09/332,650 :
Filed: June 14, 1999 :
For: DEVICES AND METHODS FOR :
CORONARY SINUS MAPPING :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, practitioner's signature appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If practitioner desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to practitioner, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the correspondence address of record.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6410014	2002-06-25	09333636	1999-06-15	00786/271002

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input checked="" type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Karen L. Elbing/	Date (YYYY-MM-DD)	2010-09-14
Name	Karen L. Elbing, Ph.D.	Registration Number	35238
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No.	6410014	:
Issue Date:	June 25, 2002	:
Application No.	09333636	:DECISION GRANTING PETITION
Filed:	June 15, 1999	:UNDER 37 CFR 1.378(c)
Attorney Docket No.	00786/271002	:

This is a decision on the electronic petition, filed September 14, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 14, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7,072,888	2006-07-04	09/334,327	1999-06-16	2017.825

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input checked="" type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Robert H. Epstein/	Date (YYYY-MM-DD)	2011-04-19
Name	Robert H. Epstein	Registration Number	24353
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
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UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No.	7072888	:
Issue Date:	July 4, 2006	
Application No.	09334327	:DECISION GRANTING PETITION
Filed:	June 16, 1999	:UNDER 37 CFR 1.378(c)
Attorney Docket No.		:

This is a decision on the electronic petition, filed April 19, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 19, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7,106,698	2006-09-12	09/334,415	1999-06-16	112025-0309

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|---|-----|--------|
| <input checked="" type="radio"/> 3 ½ year | | (1551) |
| <input type="radio"/> 7 ½ year | | (1552) |
| <input type="radio"/> 11 ½ year | | (1553) |

Small Entity

- | | Fee | Code |
|---------------------------------|-----|--------|
| <input type="radio"/> 3 ½ year | | (2551) |
| <input type="radio"/> 7 ½ year | | (2552) |
| <input type="radio"/> 11 ½ year | | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/James A. Blanchette/	Date (YYYY-MM-DD)	2011-02-16
Name	James A. Blanchette	Registration Number	51477
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

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2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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In re Patent No.	7106698	:
Issue Date:	September 12, 2006	:
Application No.	09334415	:DECISION GRANTING PETITION
Filed:	June 16, 1999	:UNDER 37 CFR 1.378(c)
Attorney Docket No.	FR9-98-048	:

This is a decision on the electronic petition, filed February 16, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 16, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



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P.O. Box 1450
Alexandria, VA 22313-1450
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MARK LAVENDER
St. Jude Medical, Atrial Fibrillation Division, Inc.
One St. Jude Medical Drive
St. Paul, MN 55117-991

MAILED

JAN 29 2012

OFFICE OF PETITIONS

In re Patent No. 6,235,024 :
Issued: May 22, 2001 :
Application No. 09/334,503 :
Filed: June 21, 1999 :
For: CATHETERS SYSTEM HAVING DUAL :
ABLATION CAPABILITY :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, practitioner's signature appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If practitioner desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to practitioner, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the correspondence address of record.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3205.

/ALEZIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FISH & RICHARDSON P.C. (BO)
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED

OCT 26 2010

OFFICE OF PETITIONS

In re Application of :
MASSOD, PAUL E. :
Application No. 09/334,574 :
Filed: 06/21/1999 :
Attorney Docket No. 10925/002001 :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed June 20, 2005, to withdraw the holding of abandonment.

On October 22, 2004, applicants submitted a REQUEST FOR RECONSIDERATION OF THE DECISION ON APPEAL DATED AUGUST 17, 2004. On December 14, 2004, the Board of Patent Appeals and Interference mailed a Decision on the Request for Rehearing. On January 7, 2005, the Office mailed a Notice of Abandonment stating that the application was abandoned in view of the decision by the Board of Patent Appeals and Interference rendered on August 17, 2004, and because the period for seeking court review of the decision had expired and there were no allowed claims.

On June 20, 2005, applicants filed the present petition to withdraw the holding of abandonment. Applicants averred that the Notice of Abandonment was mailed in error. Specifically, applicants asserted that the time for filing a notice of appeal to the Federal Circuit or for commencing a civil action expired two months after a decision on a request for rehearing or reconsideration (37 CFR 1.304(a) (i.e. February 15, 2005).

Upon further review, applicants are correct that the application did not become abandoned until February 15, 2005. However, there is nothing in the record to indicate that applicants took appropriate action on or before February 14, 2005. Accordingly, the application is currently abandoned in view of the decision by the Board of Patent Appeals and Interference rendered on December 14, 2004, and because the period for seeking court review of the decision has expired and there are no allowed claims.

The petition to withdraw the holding of abandonment is **dismissed**. The application will remain in its abandoned state until applicants file a petition to revive the application, accompanied by an appropriate reply and the petition fee.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

By FAX: (571) 273-8300
 Attn: Office of Petitions

By hand: Customer Service Window
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

Correspondence may also be submitted via the Electronic Filing System.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3211.



Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

VLP Law Group LLP
555 Bryant Street
Suite 820
Palo Alto CA 94301

MAILED

DEC 14 2011

OFFICE OF PETITIONS

In re Patent No. 6,608,060	:	
Issue Date: August 19, 2003	:	
Application No. 09/336,266	:	DECISION ON PETITION
Filed: June 18, 1999	:	
Attorney Docket No. VPI/96-16 US CP2	:	

This is a decision on the petition under 37 CFR 1.181 filed November 14, 2011 to correct the filing date of the above-identified application to June 18, 1999 instead of the currently accorded filing date of June 14, 1999.

In support of the petition, patentee has provided a copy of postcard date stamped by the USPTO on June 18, 1999 acknowledging receipt of the application papers for the above-identified application. A review of the record reveals that throughout the course of prosecution, applicant submitted numerous requests for a corrected filing receipt. Further review of the record reveals that a Certificate of Correction issued on November 28, 2006 wherein the filing date on the Letters Patent was corrected from June 14, 1999 to June 18, 1999.

In view thereof, the petition is hereby **GRANTED**.

This application is being directed to the Office of Patent Application Processing for the issuance of a corrected filing receipt to reflect that the above-identified application was filed on **June 18, 1999**.

Telephone inquiries concerning this matter may be directed to the undersigned at 571-272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,359,616	2002-03-19	09/336,420	1999-06-17	9281-3350 (00-43850US00)

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input checked="" type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Thomas C. Burton/	Date (YYYY-MM-DD)	2010-10-12
Name	Thomas C. Burton	Registration Number	60811
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6359616 :
Issue Date: March 19, 2002 :
Application No. 09336420 :DECISION GRANTING PETITION
Filed: June 17, 1999 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 9281/3350 :

This is a decision on the electronic petition, filed October 12, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 12, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No.	6453259	:
Issue Date:	September 17, 2002	:
Application No.	09336638	:DECISION GRANTING PETITION
Filed:	June 18, 1999	:UNDER 37 CFR 1.378(c)
Attorney Docket No.	99PS003/KE	:

This is a decision on the electronic petition, filed November 5, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 5, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6453259	2002-09-17	09336638	1999-06-18	99PS003

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input checked="" type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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I certify, in accordance with 37 CFR 1.4(d)(4) that I am

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- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

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Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Matthew J. Evans/	Date (YYYY-MM-DD)	2010-11-05
Name	Matthew J. Evans	Registration Number	56530
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

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7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,230,924	2001-05-15	09/337,033	1999-06-28	2420-0002

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|---------------------------------|-----|--------|
| <input type="radio"/> 3 ½ year | | (1551) |
| <input type="radio"/> 7 ½ year | | (1552) |
| <input type="radio"/> 11 ½ year | | (1553) |

Small Entity

- | | Fee | Code |
|---|-----|--------|
| <input type="radio"/> 3 ½ year | | (2551) |
| <input checked="" type="radio"/> 7 ½ year | | (2552) |
| <input type="radio"/> 11 ½ year | | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☐ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☒ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

A Joint Patentee and I certify that I am authorized to sign this submission on behalf of all the other patentees			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/David Weiss/	Date (YYYY-MM-DD)	
Name	David Weiss		
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

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3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6230924
Issue Date: May 15, 2001
Application No. 09337033
Filed: June 28, 1999
Attorney Docket No. 2420-0002

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed December 30, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 30, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,248,234	2001-06-19	09/337,295	1999-06-21	132762.00006

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|---------------------------------|-----|--------|
| <input type="radio"/> 3 ½ year | | (1551) |
| <input type="radio"/> 7 ½ year | | (1552) |
| <input type="radio"/> 11 ½ year | | (1553) |

Small Entity

- | | Fee | Code |
|---|-----|--------|
| <input type="radio"/> 3 ½ year | | (2551) |
| <input checked="" type="radio"/> 7 ½ year | | (2552) |
| <input type="radio"/> 11 ½ year | | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Dale F. Regelman/	Date (YYYY-MM-DD)	2011-05-11
Name	Dale F. Regelman	Registration Number	45625
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6248234 :
Issue Date: June 19, 2001 :
Application No. 09337295 :DECISION GRANTING PETITION
Filed: June 21, 1999 :UNDER 37 CFR 1.378(c)
Attorney Docket No. 0923-1-1CIP :

This is a decision on the electronic petition, filed May 11, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 11, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



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HELEN C LOCKHART
WOLF GREENFIELD & SACKS PC
600 ATLANTIC AVENUE
BOSTON MA 02210

MAILED

MAR 23 2011

OFFICE OF PETITIONS

In re Application of :
Krieg :
Application No. 09/337,584 :
Filed: June 21, 1999 :
Attorney Docket No. C1039/7020-H :
For: IMMUNOSTIMULATORY NUCLEIC :
ACID MOLECULES :

DECISION

The above-identified application has been forwarded to the undersigned for consideration a petition for patent term extension entitled "Petition under 37 CFR 1.181(a)" received on December 6, 2010.

The petition is granted.

Background

Petitioner notes that the above-identified application was filed on June 21, 1999, and allowed on September 9, 2010, but issuance was delayed due to an interference. Petitioner states that the USPTO failed to provide patent term extension for the full time period of the two interferences in the Notice of Allowance. Petitioner notes that the application was filed on June 21, 1999 and is eligible for patent term extension under 35 U.S.C. 154 and 37 CFR 1.701.

Petitioner asserts that the application is entitled to 877 days of patent term in accordance with 37 CFR 1.701.

Petitioner asserts that an interference was declared on January 8, 2007 and a Judgment in favor of Applicants was entered on December 1, 2008. The interference was appealed to the CAFC and the CAFC dismissed the appeal on June 3, 2009.

Therefore Petitioner asserts that the petition under 37 CFR 1.181 should be granted giving Petitioner 877 days of patent term extension.

On June 21, 1999, the above identified application was received by the Office.

On January 8, 2007, an interference was declared by the Office.

On December 1, 2008, a Judgment in favor of Applicants was entered.

On January 27, 2009, a Notice of Appeal was filed with the CAFC.

On June 3, 2009, the CAFC dismissed the appeal.

On April 2, 2010, a Notice of Allowance and Fee(s) Due notice was mailed by the Office.

Applicable Statutes and Regulation

35 U.S.C. 135 Interferences.

(a) Whenever an application is made for a patent which, in the opinion of the Director, would interfere with any pending application, or with any unexpired patent, an interference may be declared and the Director shall give notice of such declaration to the applicants, or applicant and patentee, as the case may be. The Board of Patent Appeals and Interferences shall determine questions of priority of the inventions and may determine questions of patentability. Any final decision, if adverse to the claim of an applicant, shall constitute the final refusal by the Patent and Trademark Office of the claims involved, and the Director may issue a patent to the applicant who is adjudged the prior inventor. A final judgment adverse to a patentee from which no appeal or other review has been or can be taken or had shall constitute cancellation of the claims involved in the patent, and notice of such cancellation shall be endorsed on copies of the patent distributed after such cancellation by the Patent and Trademark Office. . . .

35 U.S.C. 154. Contents and term of patent (in effect on June 8, 1995)

(b) TERM EXTENSION.-

(1) INTERFERENCE DELAY OR SECRECY ORDERS.-If the issue of an original patent is delayed due to a proceeding under section 135(a) of this title, or because the application for patent is placed under an order pursuant to section 181 of this title, the term of the patent shall be extended for the period of delay, but in no case more than 5 years.

(2) EXTENSION FOR APPELLATE REVIEW.-If the issue of a patent is delayed due to appellate review by the Board of Patent Appeals and Interferences or by a Federal court and the patent is issued pursuant to a decision in the review reversing an adverse determination of patentability, the term of the patent shall be extended for a period of time but in no case more than 5 years. A patent shall not be eligible for extension under this paragraph if it is subject to a terminal disclaimer due to the issue of another patent

claiming subject matter that is not patentably distinct from that under appellate review.

37 CFR 1.701 Extension of patent term due to examination delay under the Uruguay Round Agreements Act (original applications, other than designs, filed on or after June 8, 1995, and before May 29, 2000).

(a) A patent, other than for designs, issued on an application filed on or after June 8, 1995, is entitled to extension of the patent term if the issuance of the patent was delayed due to:

(1) Interference proceedings under 35 U.S.C. 135(a); and/or
(2) The application being placed under a secrecy order under 35 U.S.C. 181; and/or
(3) Appellate review by the Board of Patent Appeals and Interferences or by a Federal court under 35 U.S.C. 141 or 145, if the patent was issued pursuant to a decision in the review reversing an adverse determination of patentability and if the patent is not subject to a terminal disclaimer due to the issuance of another patent claiming subject matter that is not patentably distinct from that under appellate review. If an application is remanded by a panel of the Board of Patent Appeals and Interferences and the remand is the last action by a panel of the Board of Patent Appeals and Interferences prior to the mailing of a notice of allowance under 35 U.S.C. 151 in the application, the remand shall be considered a decision in the review reversing an adverse determination of patentability as that phrase is used in 35 U.S.C. 154(b)(2) as amended by section 532(a) of the Uruguay Round Agreements Act, Public Law 103-465, 108 Stat. 4809, 4983-85 (1994), and a final decision in favor of the applicant under paragraph (c)(3) of this section. A remand by a panel of the Board of Patent Appeals and Interferences shall not be considered a decision in the review reversing an adverse determination of patentability as provided in this paragraph if there is filed a request for continued examination under 35 U.S.C. 132(b) that was not first preceded by the mailing, after such remand, of at least one of an action under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151.

(b) The term of a patent entitled to extension under paragraph (a) of this section shall be extended for the sum of the periods of delay calculated under paragraphs (c)(1), (c)(2), (c)(3) and (d) of this section, to the extent that these periods are not overlapping, up to a maximum of five years. The extension will run from the expiration date of the patent.

(c)(1) The period of delay under paragraph (a)(1) of this section for an application is the sum of the following periods, to the extent that the periods are not overlapping:

(i) With respect to each interference in which the application was involved, the number of days, if any, in the period beginning on the date the interference was declared or redeclared to involve the application in the interference and ending on the date that the interference was terminated with respect to the application; and

(ii) The number of days, if any, in the period beginning on the date prosecution in the application was suspended by the Patent and Trademark Office due to interference proceedings under 35 U.S.C. 135(a) not involving the application and ending on the date of the termination of the suspension.

(2) The period of delay under paragraph (a)(2) of this section for an application is the sum of the following periods, to the extent that the periods are not overlapping:

(i) The number of days, if any, the application was maintained in a sealed condition under 35 U.S.C. 181;

(ii) The number of days, if any, in the period beginning on the date of mailing of an examiner's answer under § 41.39 of this title in the application under secrecy order and ending on the date the secrecy order and any renewal thereof was removed;

(iii) The number of days, if any, in the period beginning on the date applicant was notified that an interference would be declared but for the secrecy order and ending on the date the secrecy order and any renewal thereof was removed; and

(iv) The number of days, if any, in the period beginning on the date of notification under § 5.3(c) and ending on the date of mailing of the notice of allowance under § 1.311.

(3) The period of delay under paragraph (a)(3) of this section is the sum of the number of days, if any, in the period beginning on the date on which an appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and ending on the date of a final decision in favor of the applicant by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145.

(d) The period of delay set forth in paragraph (c)(3) shall be reduced by:

(1) Any time during the period of appellate review that occurred before three years from the filing of the first national application for patent presented for examination; and

(2) Any time during the period of appellate review, as determined by the Director, during which the applicant for patent did not act with due diligence. In determining the due diligence of an applicant, the Director may examine the facts and circumstances of the applicant's actions during the period of appellate review to determine whether the applicant exhibited that degree of timeliness as may reasonably be expected from, and which is ordinarily exercised by, a person during a period of appellate review.

(e) The provisions of this section apply only to original patents, except for design patents, issued on applications filed on or after June 8, 1995, and before May 29, 2000.

Opinion

The patent statute only permits extension of patent term based on very specific criteria. The Office has no authority to grant any extension or adjustment of the term due to administrative delays except as authorized by 35 U.S.C. § 154. 35 U.S.C. § 154 provides for patent term extension for appellate review, interference and secrecy order delays in utility and plant applications filed on or after June 8, 1995, and, as amended by the "American Inventors Protection Act of 1999," enacted November 29, 1999, as part of Public Law 106-113, for other specifically defined administrative delays in utility and plant applications filed on or after May 29, 2000.

The above-identified application was filed on June 21, 1999. Accordingly it is entitled to patent term extension based upon the conditions in 35 U.S.C. § 154(b), in effect on June 8, 1995. The provisions of 35 U.S.C. § 154(b) in effect on May 29, 2000 do not apply, because the amended version of 35 U.S.C. § 154(b) only applies to applications filed on or after May 29, 2000. Pursuant to 35 U.S.C. § 154(b), in effect on June 8, 1995, an applicant can receive patent term

extension only if there was an appellate review, interference or a secrecy order delays as set forth in the statute.


On January 8, 2007, an interference was declared by the Office. On December 1, 2008, a Judgment in favor of Applicants was entered. On January 27, 2009, a Notice of Appeal was filed with the CAFC. On June 3, 2009, the CAFC dismissed the appeal. As a result, the first period of extension is 878 days, the period from January 8, 2007 to June 3, 2009, including the beginning and end dates.

The Office's electronic record (Patent Application and Location Monitoring system (PALM)) will be adjusted to show that 878 days of patent term extension has been accrued to the above-identified application.

After mailing of this decision, the above-identified application will be forwarded to Office of Publications for further processing. The patent, if issued, will include an indication that the patent term is extended by 878 days.

Petitioner's deposit account has not been charged a petition fee.

Telephone inquiries with regard to this communication should be directed to Mark O. Polutta at (571) 272-7709.

A handwritten signature in black ink, appearing to read 'M O Polutta', with a long horizontal line extending to the right.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy



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2018 POWERS FERRY ROAD
SUITE 800
ATLANTA GA 30339

MAILED

DEC 14 2011

OFFICE OF PETITIONS

In re Patent No. 6,068,480
Issued: May 30, 2000
Application No. 09/338,032
Filed: June 22, 1999
Attorney Docket No. 02071.0010

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NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed November 4, 2011.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1/3/12

TO SPE OF : ART UNIT: 1623

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/338,185 Patent No. 6,403,567

CofC mailroom date 12/21/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Ernest C. White, LIE

Certificates of Correction Branch
703-756-1814 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not apply.**

☐ **Denied**

State the reasons for denial below.

Comments: The C of C has been approved.

/S. A. Jiang/

1623

SPE

Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1/3/12

TO SPE OF : ART UNIT: 1623

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/338,185 Patent No. 6,403,567

CofC mailroom date 12/21/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Ernest C. White, LIE

Certificates of Correction Branch
703-756-1814 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

XXXX ☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes do not apply.

☐ **Denied**

State the reasons for denial below.

Comments: The C of C has been approved.

/S. A. Jiang/

1623

SPE

Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110615

DATE : June 14, 2011

TO SPE OF : ART UNIT 2193

SUBJECT : Request for Certificate of Correction on Patent No.: 6,425,122

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:

Certificates of Correction Branch - PK 3-910

Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Certificates of Correction Branch

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

Comments:

SPE: /Lewis A. Bullock, Jr./

Art Unit 2193



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 10

WINNIE WANG
7F-3, NO. 79
SEC. 1, HSI-TAI-WU ROAD
HSI-CHIH, TAIPEI HSIEN, 221 TAIWAN

MAILED
DEC 06 2010
OFFICE OF PETITIONS

In re Patent No. 6,249,126 :
Issue Date: 06/19/2001 :
Application No. 09/339,036 : DECISION ON PETITION
Filed: 06/23/1999 :
Title: CAPACITY DETECTING CIRCUIT :
FOR A BATTERY :

This is in response to the PETITION TO ACCEPT UNAVOIDABLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(b)), filed June 11, 2010.

The patent issued June 19, 2001. The second maintenance fee could have been paid during the period from June 19, 2008 through December 19, 2008 or with a surcharge during the period from December 20, 2008 through June 19, 2009. Accordingly, this patent expired on June 20, 2009, for failure to timely remit the second maintenance fee.

37 CFR 1.378(d) requires that any petition under 37 CFR 1.378 must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest. There is no indication in the USPTO's records that Winnie Wang is an attorney or agent registered to practice before the USPTO or the patentee. Rather, it appears that Winnie Wang signed the present petition on behalf of the assignee. However, the Office does not consider Winnie Wang a person authorized to sign a petition under 37 CFR 1.378 because she failed to satisfy the requirements of 37 CFR 3.73(b)

Pursuant to 37 CFR 3.73:

(b) (1) In order to request or take action in a patent or trademark matter, the assignee must establish its ownership of the patent or trademark property of paragraph (a) of this section to the satisfaction of the Director. The establishment of ownership by the assignee may be combined with the paper that requests or takes the action. Ownership is established by submitting to the Office a signed statement identifying the assignee, accompanied by either:

(i) Documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment)...For patent matters only, the submission of the documentary evidence must be accompanied by a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or

(ii) A statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number).

(2) The submission establishing ownership must show that the person signing the submission is a person authorized to act on behalf of the assignee by:

(i) Including a statement that the person signing the submission is authorized to act on behalf of the assignee; or

(ii) Being signed by a person having apparent authority to sign on behalf of the assignee, e.g., an officer of the assignee.

The Office notes that neither the present petition nor the patent file includes a Statement under 37 CFR 3.73(b) authorizing Winnie Wang to act on behalf of the assignee, Quitewin Technology Corporation. The Office will not presume from the filing of the present petition that it is signed by a proper party pursuant to 37 CFR 1.378(d). See generally, MPEP 324 and 37 CFR 3.73(b). Thus, the petition is improperly signed.

The Office will not treat the present petition on the merits until petitioner submits a "renewed" petition under 37 CFR 1.378(b), signed by a person(s) having authority to act (e.g. a registered patent

attorney or agent, the patentee, or the assignee accompanied by a Statement under 37 CFR 3.73(b)). Accordingly, the petition is dismissed.

Although the Office will not address the petition on its merits, the Office reminds petitioner that the Director may accept the payment of any maintenance fee due on a patent after expiration of the patent if, upon petition, the delay in payment of the maintenance fee is shown to the satisfaction of the Director to have been unavoidable and if the surcharge required by § 1.20(i) is paid as a condition of accepting payment of the maintenance fee. 37 CFR 1.378(a).

A grantable petition to accept a delayed maintenance fee payment under 37 CFR 1.378(b) must include the following:

- (1) the required maintenance fee set forth in § 1.20(e) through (g);
- (2) the surcharge set forth in § 1.20(i)(1); and
- (3) a showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

In determining whether the delay in paying a maintenance fee was unavoidable, one looks to whether the party responsible for payment of the maintenance fee exercised the due care of a reasonably prudent person. Ray v. Lehman, 55 F.3d 606, 608-609, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995). The patent owner at the time of the expiration of the patent is ultimately the person responsible to ensure the timely payment of the maintenance fees. The patent owner may engage another to track and/or pay the maintenance fees; however, merely engaging another does not relieve the patent owner from his obligation to take appropriate steps to ensure the timely payment of such maintenance fees. See California Medical Prods. v. Tecnol Medical Prods., 921 F. Supp. 1219 (D. Del. 1995). Moreover, the USPTO must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of a patent owner, and a patent owner is bound by the consequences of those actions or

inactions. Link v. Wabash, 370 U.S. 626, 633-34 (1962); Huston v. Ladner, 973 F.2d 1564, 1567, 23 USPQ2d 1910, 1913 (Fed. Cir. 1992). Specifically, delay caused by the actions or inactions of a voluntarily chosen representative does not constitute unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (D. Ind. 1987). Therefore, any delay caused by the negligence or mistakes of a patent owner's voluntarily chosen legal representative does not constitute unavoidable delay. Haines v. Quigg, 673 F. Supp. at 317; Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981).

The patent file does not indicate a change of address has been filed in this case, although the address given in the petition differs from the address of record. If petitioner desires to receive future correspondence regarding this patent, a change of correspondence address (and a power of attorney, if applicable) should be submitted. As a one-time courtesy, the Office will mail this decision to the address listed on the petition. Thereafter, all correspondence will be mailed to the address of record until the Office is notified otherwise.

In summary, petitioner must submit: (1) a "renewed" petition under 37 CFR 1.378(b) signed by an appropriate party as stated in 37 CFR 1.378(d); (2) a completed Statement Under 37 CFR 3.73(b) if the petition is being filed on behalf of the assignee; and, (3) a change of correspondence address signed by an appropriate party. Petitioner may supplement the petition if petitioner desires. The necessary forms accompany this communication for petitioner's convenience.

In the alternative, petitioner may wish to consider filing a petition under 37 CFR 1.378(c), requesting that the Office accept the unintentionally delayed payment of the second maintenance fee. The showing of unintentional delay is less burdensome and is evaluated under a less stringent standard than unavoidable delay.

A petition under 37 CFR 1.378(c) must be filed within twenty four months from the end of the six month grace period and be accompanied by (1) a verified statement that the delay was unintentional, (2) payment of the appropriate maintenance fee, unless previously submitted, and (3) payment of the \$1,640.00 surcharge **(the \$700.00 surcharge previously paid may be credited thereto leaving a balance due of \$940.00)** set forth in 37 CFR 1.20(i)(2).

A copy of the form for a Petition to Accept the Unintentionally Delayed Payment of Maintenance Fee in an Expired Patent (37 CFR 1.378(c)) accompanies this decision for petitioner's convenience.

Patent No. 6,249,126
Application No. 09/339,036

Page 5

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By fax: (571) 273-8300
ATTN: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Correspondence may also be submitted via EFS-Web.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosures: Statement Under 37 CFR 3.73(b) Form (PTO/SB/96); Petition to Accept Unintentionally Delayed Payment of Maintenance Fee in an Expired Patent (37 CFR 1.378(c)) Form (PTO/SB/66); Petition to Accept Unavoidably Delayed Payment of Maintenance Fee in an Expired Patent (37 CFR 1.378(b)) Form (PTO/SB/65); and, Change of Address in a Patent Form (PTO/SB/123).



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APR 08 2011

OFFICE OF PETITIONS

In re Patent No. 6,249,126	:	
Issue Date: June 19, 2001	:	
Application No. 09/339,036	:	ON PETITION
Filed: June 23, 1999	:	
Attorney Docket No.	:	

This is a decision on the petition under 37 CFR 1.378(c), filed February 15, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

This patent expired at midnight March 20, 2009, for failure to pay the 7½ year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The petition is hereby **GRANTED**.

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions



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CLEVELAND OH 44114

MAILED

AUG 03 2011

OFFICE OF PETITIONS

In re Patent No. 6,399,026
Issue Date: June 4, 2002
Application No. 09/339,073
Filed: June 23, 1999
Attorney Docket No. 15-290


NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.


Irvin Dingle
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110721

DATE : June 09, 2009

TO SPE OF : ART UNIT 3641

SUBJECT : Request for Certificate of Correction on Patent No.: 6,416,257

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:

Certificates of Correction Branch - ST (South Tower) 9A22

Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Certificates of Correction Branch

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

Comments:

/MICHAEL CARONE/
Supervisory Patent Examiner.Art Unit 3641



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Laboratory Corporation of America Holdings
c/o Kilpatrick Townsend & Stockton LLP
1001 West Fourth Street
Winston-Salem NC 27101

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JUL 05 2011
OFFICE OF PETITIONS

In re Application of :
Christos J. Petropoulos et al. :
Patent No. 6,489,098 :
Application No. 09/339,357 :
Filed: June 23, 1999 :
Attorney Docket No. 55599-A/JPW/ :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 May 19, 2011.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions